

# **EXHIBIT B**

## **PART II**

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<p>1 Costco figures that were produced in connection with 12:19:46</p> <p>2 this litigation. Others were the complaints that 12:19:48</p> <p>3 the company was receiving in connection with 12:19:52</p> <p>4 litigation. Others were the internal company 12:19:55</p> <p>5 documents that we have seen in connection with this 12:19:57</p> <p>6 litigation. 12:20:00</p> <p>7 And then addressing the second 12:20:02</p> <p>8 part, that the gray market could have a deleterious 12:20:05</p> <p>9 effect on sales for Adams, that would be based 12:20:08</p> <p>10 primarily on internal company memos regarding the 12:20:12</p> <p>11 deleterious effects that the company believed the 12:20:16</p> <p>12 gray market could happen not only on internal 12:20:21</p> <p>13 company memos, there were other indications as well. 12:20:25</p> <p>14 Q. What indications are those? 12:20:29</p> <p>15 A. For example, there was I think it was 12:20:30</p> <p>16 his name was Eddie Tate, maybe it was Edwin Watts, 12:20:33</p> <p>17 it was one of the company's customers. When asked 12:20:44</p> <p>18 in anticipation of the initial public offering about 12:20:49</p> <p>19 concerns, I believe was the question, that person 12:20:54</p> <p>20 responded that the company had better maintain high 12:20:58</p> <p>21 profit margins; if profit margins were affected they 12:21:01</p> <p>22 would essentially jump ship. 12:21:05</p> <p>23 And given the characteristics of 12:21:07</p> <p>24 the gray market, was not a surprising response. And 12:21:10</p>	<p>1 deleterious effect on the gray marketing activity at 12:22:14</p> <p>2 Adams prior to the IPO, is that right? 12:22:18</p> <p>3 MR. COLLINS: Go ahead. I mean, if 12:22:21</p> <p>4 you want to make it a memory context, go ahead, as 12:22:23</p> <p>5 best you can recall, that's fine. 12:22:27</p> <p>6 BY THE WITNESS: 12:22:28</p> <p>7 A. I would feel more comfortable 12:22:29</p> <p>8 answering if I saw the document and could read his 12:22:31</p> <p>9 quote again. 12:22:33</p> <p>10 BY MR. BESSETTE: 12:22:34</p> <p>11 Q. That's fine. What I am asking you 12:22:35</p> <p>12 then goes back to what do you mean in that -- what 12:22:35</p> <p>13 is your evidence for this statement in your report 12:22:36</p> <p>14 that there were indications prior to the IPO that 12:22:39</p> <p>15 gray market activity could have a deleterious effect 12:22:43</p> <p>16 on sales for Adams? 12:22:46</p> <p>17 MR. COLLINS: Asked and answered. 12:22:49</p> <p>18 Go ahead. 12:22:50</p> <p>19 BY THE WITNESS: 12:22:50</p> <p>20 A. I did answer that question. Can you 12:22:51</p> <p>21 read back my answer? Is that -- 12:22:53</p> <p>22 BY MR. BESSETTE: 12:22:54</p> <p>23 Q. You gave me in one of the answers a 12:22:55</p> <p>24 Watts confirmation. Is that your testimony? That 12:22:58</p>
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<p>1 if anybody at Adams knew about the effects of the 12:21:13</p> <p>2 gray market, there were certainly indications that 12:21:17</p> <p>3 the increasing gray market sales would have a 12:21:19</p> <p>4 deleterious effect. 12:21:22</p> <p>5 Q. You are talking about the Edward Watts 12:21:28</p> <p>6 quote in the Golf Pro magazine of May 1998, is that 12:21:33</p> <p>7 what you're talking about? 12:21:38</p> <p>8 A. No. I am talking about a due 12:21:38</p> <p>9 diligence questionnaire. 12:21:44</p> <p>10 Q. And was Mr. Watts in that 12:21:45</p> <p>11 questionnaire talking about margin generally or was 12:21:47</p> <p>12 he talking about margin in any kind of connection 12:21:49</p> <p>13 with gray market? 12:21:53</p> <p>14 MR. COLLINS: Document speaks for 12:21:54</p> <p>15 itself. Shouldn't be a memory contest. Show her 12:21:57</p> <p>16 the document. 12:21:58</p> <p>17 BY MR. BESSETTE: 12:21:58</p> <p>18 Q. Do you know? 12:21:59</p> <p>19 A. Actually, I would like to see the 12:22:01</p> <p>20 document. I don't remember the exact quote. 12:22:02</p> <p>21 Q. But you are associating it in your 12:22:04</p> <p>22 mind, you are giving testimony that it was the Edwin 12:22:06</p> <p>23 Watts confirmation that -- about margin that you are 12:22:09</p> <p>24 taking as part of your evidence for why there was a 12:22:11</p>	<p>1 you are taking that as one of the examples of 12:23:01</p> <p>2 evidence that gray marketing could have a 12:23:03</p> <p>3 deleterious effect on sales for Adams because 12:23:07</p> <p>4 Mr. Watts said in his confirmation that he needs 12:23:10</p> <p>5 good margin or he will leave? 12:23:14</p> <p>6 MR. COLLINS: Objection, asked and 12:23:16</p> <p>7 answered. 12:23:16</p> <p>8 Go ahead. 12:23:18</p> <p>9 BY THE WITNESS: 12:23:18</p> <p>10 A. I'm sorry, maybe confirmation is a 12:23:18</p> <p>11 term of art that I'm not familiar with. But it was 12:23:19</p> <p>12 a statement that Edwin Watts made in connection with 12:23:21</p> <p>13 a due diligence questionnaire that he filled out in 12:23:23</p> <p>14 anticipation of the initial public offering. If 12:23:28</p> <p>15 that's a confirmation, then yes. 12:23:30</p> <p>16 BY MR. BESSETTE: 12:23:34</p> <p>17 Q. Do you recall as you sit here what 12:23:34</p> <p>18 about that response had anything to do with gray 12:23:38</p> <p>19 marketing? 12:23:42</p> <p>20 MR. COLLINS: Asked and answered. 12:23:43</p> <p>21 BY THE WITNESS: 12:23:44</p> <p>22 A. Yes. Profit margins, negative -- 12:23:44</p> <p>23 effects on pricing policies and profit margins are a 12:23:49</p> <p>24 commonly cited negative effect of the gray market. 12:23:53</p>

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<p>1 And so when he stated that profit margins had better 12:23:56  2 stay high and would jump ship if they wouldn't, 12:24:00  3 which is how I remember the answer, but again, I am 12:24:04  4 not exactly sure of the quote. That immediately 12:24:07  5 raised flags for me, given that gray marketing was 12:24:11  6 already occurring at Adams. 12:24:16  7 BY MR. BESSETTE: 12:24:17  8 Q. What information or data was available 12:24:17  9 to the company that would identify the causes of 12:24:23  10 this deleterious effect that you think was evident 12:24:28  11 pre IPO? 12:24:32  12 MR. COLLINS: Foundation. 12:24:33  13 THE WITNESS: Can you restate the 12:24:35  14 question? 12:24:35  15 MR. BESSETTE: Can you? 12:24:45  16 (Record read.) 12:24:47  17 BY THE WITNESS: 12:24:47  18 A. Okay. I think I am going to ask you 12:24:49  19 to restate the question, simply because I'm not sure 12:24:54  20 exactly what it is that you are trying to -- 12:24:57  21 BY MR. BESSETTE: 12:24:59  22 Q. I am trying to get at, Professor, your 12:24:59  23 statement here that prior to the IPO there were 12:25:02  24 indications that gray market sales were increasing. 12:25:04</p>	<p>1 was also all the information from WDC Mackenzie, and 12:26:19  2 there was actually declining sales in Canada. 12:26:23  3 Q. Okay. Anything else? 12:26:26  4 A. No. 12:26:28  5 Q. Now, on page -- I am sorry -- 12:26:28  6 Paragraph 19 of your initial report. 12:26:37  7 MR. COLLINS: Initial, did you say? 12:26:40  8 MR. BESSETTE: Uh-huh. 12:26:42  9 BY MR. BESSETTE: 12:26:43  10 Q. Okay. The first sentence you say, 12:27:01  11 "The company's business model made it particularly 12:27:03  12 vulnerable to gray marketers." In the third 12:27:08  13 sentence, "In the long-term, the gray market is 12:27:10  14 known to be potentially detrimental to consumers and 12:27:13  15 trademark holders and the like." 12:27:18  16 Now, tell me the evidence that 12:27:20  17 supports your conclusion that Adams was particularly 12:27:23  18 vulnerable to gray marketers? 12:27:26  19 MR. COLLINS: Asked and answered. 12:27:28  20 Go ahead. 12:27:29  21 BY THE WITNESS: 12:27:29  22 A. I'll just go back to the conversation 12:27:30  23 that we had earlier, which was about how it was that 12:27:31  24 I sort of engaged in my analysis. Given the gray 12:27:36</p>
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<p>1 And we've already talked about that. But that gray 12:25:08  2 market could have a deleterious effect on sales. 12:25:10  3 Tell me the data or information that was available 12:25:13  4 to the company, so what indications would they have 12:25:15  5 seen to show that there could be a deleterious 12:25:19  6 effect on sales pre IPO? 12:25:23  7 MR. COLLINS: Foundation. 12:25:26  8 Go ahead. 12:25:28  9 BY THE WITNESS: 12:25:28  10 A. Prior to the IPO, the company had, for 12:25:28  11 one, received a number of complaints, including a 12:25:31  12 series of communications from WDC Mackenzie 12:25:34  13 regarding the effects that gray marketing was having 12:25:38  14 on authorized retailers in Canada. Among those, 12:25:41  15 among I think it was internal memo, I think it was 12:25:45  16 an Adams internal memo relating what WDC Mackenzie 12:25:51  17 had stated. The company stood, I think the quote 12:25:57  18 was something like the company stood to lose 12:26:00  19 goodwill and something like 15,000 clubs worth of 12:26:04  20 sales. 12:26:10  21 BY MR. BESSETTE: 12:26:10  22 Q. Anything else? 12:26:10  23 A. Yes. That's sort of a large body of 12:26:11  24 things right there. There was the complaints, there 12:26:17</p>	<p>1 market literature and my familiarity with the gray 12:27:41  2 market literature, I looked at the business 12:27:44  3 strategies that Adams employed and superimposed 12:27:47  4 them, sort of looked at the correlation of Adams' 12:27:53  5 business strategies with those that are known to be 12:28:00  6 particularly inviting to gray marketers. 12:28:03  7 BY MR. BESSETTE: 12:28:06  8 Q. Well, in Paragraph 39 of your 12:28:06  9 rebuttal -- 12:28:08  10 MR. COLLINS: Of the rebuttal? 12:28:09  11 MR. BESSETTE: Yes. 12:28:13  12 MR. COLLINS: Give us a second to get 12:28:14  13 there, please. 12:28:15  14 MR. BESSETTE: Todd, you don't need to 12:28:15  15 say that. I routinely wait. 12:28:17  16 MR. COLLINS: I appreciate it. We are 12:28:20  17 there. 12:28:25  18 BY MR. BESSETTE: 12:28:26  19 Q. You say that Adams had a unique 12:28:28  20 business model. Tell me what you mean by that. 12:28:32  21 MR. COLLINS: Well, with reference to 12:28:34  22 Paragraph 39 or just answer the question? What do 12:28:38  23 you want her to do? 12:28:40  24</p>

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<p>1 BY MR. BESSETTE: 12:28:40</p> <p>2 Q. What was unique about Adams' business 12:28:41</p> <p>3 model that made it especially vulnerable to gray 12:28:44</p> <p>4 marketing? 12:28:48</p> <p>5 A. I think I have laid that out. It is a 12:28:48</p> <p>6 different question from the first question you 12:28:50</p> <p>7 asked, for which I also had a response. 12:28:54</p> <p>8 But there were a number of things 12:28:56</p> <p>9 that were particular about Adams' business plan that 12:28:57</p> <p>10 made it particularly directed to gray marketers. 12:28:59</p> <p>11 Its high profit margins, high retailer profit 12:29:04</p> <p>12 margins were one. Its desire to restrict sales to 12:29:07</p> <p>13 its authorized retailers -- I'm sorry. To restrict, 12:29:18</p> <p>14 to maintain sales through its authorized retailers 12:29:21</p> <p>15 and to maintain strong and exclusive relationships 12:29:25</p> <p>16 with those authorized retailers. In addition, the 12:29:28</p> <p>17 company had plans to internationalize. And there 12:29:32</p> <p>18 are others that are listed in my report. 12:29:35</p> <p>19 Q. Is wanting to offer your retailers, 12:29:43</p> <p>20 you know, high margins, is that unique in the 12:29:47</p> <p>21 business world? 12:29:50</p> <p>22 A. Wanting to offer your retailers good 12:29:51</p> <p>23 profit margins is not unique in the business world, 12:29:56</p> <p>24 no. 12:29:58</p>	<p>1 particular or unique to Adams Golf. It was how they 12:31:19</p> <p>2 were engaging in each of those that was. 12:31:24</p> <p>3 BY MR. BESSETTE: 12:31:24</p> <p>4 Q. How were they engaging in those that 12:31:27</p> <p>5 made it unique? 12:31:30</p> <p>6 A. For example, the pricing policies and 12:31:31</p> <p>7 the high built-in retailer profits -- 12:31:32</p> <p>8 Q. I'm sorry. Let's stick with 1, 2 and 12:31:35</p> <p>9 3. 12:31:38</p> <p>10 A. That was Number 3. 12:31:38</p> <p>11 MR. COLLINS: Wait, wait, wait, wait. 12:31:40</p> <p>12 Let's have a question. She was answering 3, and you 12:31:41</p> <p>13 cut her off. 12:31:44</p> <p>14 MR. BESSETTE: That's fine. I thought 12:31:46</p> <p>15 it was four, so go ahead. 12:31:46</p> <p>16 MR. COLLINS: Not a problem. 12:31:48</p> <p>17 Do you have the question in mind? 12:31:48</p> <p>18 THE WITNESS: Yes. 12:31:50</p> <p>19 MR. COLLINS: Go ahead then. 12:31:50</p> <p>20 BY THE WITNESS: 12:31:53</p> <p>21 A. So for example, as to Number 3, Adams 12:31:53</p> <p>22 Golf in its road trip presentation stated and made 12:31:57</p> <p>23 clear that it offered a significantly higher profit 12:32:00</p> <p>24 margin than its competitors. That made it unique, 12:32:04</p>
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<p>1 Q. Is wanting to internationalize unique? 12:29:58</p> <p>2 A. It is not unique. The methods, the 12:30:01</p> <p>3 particularities of how Adams was going about each of 12:30:04</p> <p>4 those was unique. 12:30:08</p> <p>5 Q. Well, let's go to Paragraph 5A of your 12:30:09</p> <p>6 rebuttal, where I think you list the elements that 12:30:17</p> <p>7 make Adams' business model particularly attractive 12:30:20</p> <p>8 to gray marketers. You write these included, one, 12:30:26</p> <p>9 maintaining the strength of the Tight Lies brand; 12:30:32</p> <p>10 two, strong and exclusive relationships with its 12:30:36</p> <p>11 distributors and retailers; three, pricing policies 12:30:40</p> <p>12 which included high built-in retailer profit; four, 12:30:41</p> <p>13 reliance on its in-house sales force and customer 12:30:45</p> <p>14 service infrastructure to maintain its competitive 12:30:49</p> <p>15 strengths; and five, an intention to further 12:30:52</p> <p>16 internationalize. So looking at 1, 2 and 3, 12:30:57</p> <p>17 Professor, aren't these strategies that every golf 12:31:03</p> <p>18 club manufacture wants? In other words, are those 12:31:05</p> <p>19 unique to Adams Golf? 12:31:07</p> <p>20 MR. COLLINS: Asked and answered. 12:31:09</p> <p>21 Go ahead. 12:31:10</p> <p>22 BY THE WITNESS: 12:31:11</p> <p>23 A. Yeah. As I stated, those strategies 12:31:12</p> <p>24 sort of in a broad sweep are not necessarily 12:31:14</p>	<p>1 because it created a wider in gap which gray 12:32:08</p> <p>2 marketers could play, especially more space for 12:32:13</p> <p>3 arbitrage to occur. 12:32:16</p> <p>4 BY MR. BESSETTE: 12:32:18</p> <p>5 Q. How about one and two? 12:32:19</p> <p>6 A. Maintaining the strength of the Tight 12:32:21</p> <p>7 Lies brand. Adams Golf was a new company that was 12:32:24</p> <p>8 trying to enter into the golf consumer mind. And 12:32:28</p> <p>9 their desire was to do so in a way that made it a 12:32:33</p> <p>10 highly desirable, highly sought after, highly 12:32:36</p> <p>11 prestigious brand. The fact that Adams was a new 12:32:41</p> <p>12 company seeking that image made it unique. 12:32:46</p> <p>13 Q. And Number 2, what is unique about 12:32:49</p> <p>14 that? 12:32:53</p> <p>15 A. What is unique about that is that -- 12:32:53</p> <p>16 well, first, I don't know -- I don't know in the 12:32:57</p> <p>17 golf industry as a whole, I haven't studied the 12:33:00</p> <p>18 business models of every golf company in the golf 12:33:04</p> <p>19 industry to know the steps that they take to ensure 12:33:08</p> <p>20 strong and exclusive relationships with their 12:33:11</p> <p>21 distributors and retailers. But I can tell you that 12:33:14</p> <p>22 having strong and exclusive relationships with 12:33:20</p> <p>23 retailers as a business strategy creates among the 12:33:22</p> <p>24 reasons to have that strong and exclusive 12:33:31</p>

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<p>1 relationship is to be able to set set prices. 12:33:34</p> <p>2 And to I don't want to imply that 12:33:38</p> <p>3 Adams was engaging in antitrust -- or I'm sorry -- 12:33:42</p> <p>4 in monopoly, that's not what I mean, but to suggest 12:33:47</p> <p>5 retailer prices that will be observed uniformly. 12:33:49</p> <p>6 That has the effect of creating sort of a price 12:33:54</p> <p>7 umbrella under which others can undercut. Gray 12:34:02</p> <p>8 marketers can come in and undercut the prices that 12:34:05</p> <p>9 are set by the authorized retailers. So even if -- 12:34:09</p> <p>10 so as I said, I don't know what every company was 12:34:09</p> <p>11 doing, but even if all companies were engaged in 12:34:12</p> <p>12 this particular activity, having strong and 12:34:15</p> <p>13 exclusive relationships, it would not preclude Adams 12:34:19</p> <p>14 from being particularly vulnerable to gray marketing 12:34:23</p> <p>15 in combination with the other business strategies 12:34:27</p> <p>16 that it employed. 12:34:31</p> <p>17 Q. All right. So trying to boil that 12:34:33</p> <p>18 down, 1, 2 and 3 in Paragraph 5A of your rebuttal 12:34:34</p> <p>19 report, I think as you testified, are not 12:34:39</p> <p>20 particularly unique to Adams Golf, but the way that 12:34:40</p> <p>21 they employed them is what made them unique. And 12:34:44</p> <p>22 what you described to me is, Number 1, the brand 12:34:48</p> <p>23 issue, again, not unique to Adams Golf, because it 12:34:51</p> <p>24 was hot and it was new, they were trying to 12:34:55</p>	<p>1 about that now. 12:36:35</p> <p>2 BY MR. BESSETTE: 12:36:37</p> <p>3 Q. What you said was 1, 2 and 3 weren't 12:36:37</p> <p>4 particularly unique to Adams Golf, as opposed to 12:36:41</p> <p>5 other businesses, but it was the way that they 12:36:44</p> <p>6 employed them, what they did in particular is what 12:36:46</p> <p>7 made the business strategy of Adams Golf 12:36:49</p> <p>8 particularly vulnerable to gray marketers. Do I 12:36:52</p> <p>9 have that right? 12:36:56</p> <p>10 MR. COLLINS: Record speaks for 12:36:57</p> <p>11 itself, mischaracterized the testimony. 12:36:59</p> <p>12 Go ahead and answer. 12:37:01</p> <p>13 BY THE WITNESS: 12:37:01</p> <p>14 A. Yeah. That each of 1, 2 and 3, that 12:37:01</p> <p>15 those practices, sort of as a broad sweep, that may 12:37:03</p> <p>16 have been -- may have been employed by others, but 12:37:07</p> <p>17 the way in which Adams Golf employed them was 12:37:12</p> <p>18 unique, yes. 12:37:17</p> <p>19 BY MR. BESSETTE: 12:37:17</p> <p>20 Q. All right. And Number 1, brand image, 12:37:17</p> <p>21 what was unique about the way Adams Golf employed 12:37:20</p> <p>22 that, was because it was a new product and it wanted 12:37:24</p> <p>23 to maintain that newness, is that right? 12:37:26</p> <p>24 A. Yes. Yes. 12:37:28</p>
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<p>1 establish their brand, you find that particularly 12:34:58</p> <p>2 unique to Adams. And Number 3, the pricing policies 12:35:01</p> <p>3 you say because of the particularly high profit 12:35:02</p> <p>4 margin Adams Golf had and wanted to maintain 12:35:05</p> <p>5 provided additional arbitrage opportunities. So 12:35:10</p> <p>6 that's what made essentially 1, 2 and 3 unique to 12:35:14</p> <p>7 Adams Golf? 12:35:19</p> <p>8 MR. COLLINS: Well, the problem is, 12:35:19</p> <p>9 it's vague and ambiguous, compound, mischaracterizes 12:35:19</p> <p>10 the testimony. 12:35:23</p> <p>11 You may answer. 12:35:24</p> <p>12 Asked and answered. 12:35:26</p> <p>13 THE WITNESS: Could you read back the 12:35:29</p> <p>14 question? 12:35:30</p> <p>15 (Record read.) 12:35:30</p> <p>16 BY MR. BESSETTE: 12:35:30</p> <p>17 Q. I understand, Professor, what you said 12:36:13</p> <p>18 is Numbers 1, 2 and 3, I think you testified and 12:36:16</p> <p>19 admitted that they are not particularly unique to 12:36:18</p> <p>20 Adams Golf. Let's stop there. Is that right? 12:36:26</p> <p>21 A. No. 12:36:31</p> <p>22 Q. Okay. Well, I think the record will 12:36:32</p> <p>23 have that. 12:36:33</p> <p>24 MR. COLLINS: We don't have to argue 12:36:33</p>	<p>1 Q. Okay. And Number 2, strong and 12:37:28</p> <p>2 unique -- I'm sorry -- strong and exclusive 12:37:31</p> <p>3 relationships, what was unique about that? 12:37:34</p> <p>4 MR. COLLINS: Asked and answered. 12:37:35</p> <p>5 Go ahead. 12:37:37</p> <p>6 BY THE WITNESS: 12:37:37</p> <p>7 A. As I stated, because I didn't do an 12:37:38</p> <p>8 extensive survey of how -- I wouldn't have privilege 12:37:40</p> <p>9 to know, even if I had tried, what every golf 12:37:43</p> <p>10 manufacture does in this respect. It may or may not 12:37:48</p> <p>11 be that other manufacturers engage in this 12:37:52</p> <p>12 particular activity, but this particular activity 12:37:55</p> <p>13 does create the conditions for arbitrage to occur. 12:37:58</p> <p>14 And certainly in combination with Adams' other 12:38:03</p> <p>15 business strategies, it created the environment for 12:38:07</p> <p>16 arbitrage to occur. 12:38:11</p> <p>17 BY MR. BESSETTE: 12:38:12</p> <p>18 Q. So standing alone, Number 2, you don't 12:38:12</p> <p>19 know that there is anything unique about it with 12:38:15</p> <p>20 Adams Golf. That's what you are telling me. 12:38:17</p> <p>21 A. Only that it was used in combination 12:38:19</p> <p>22 with other business strategies. 12:38:22</p> <p>23 Q. Right. But standing alone, there is 12:38:24</p> <p>24 nothing unique about it that you can sit here and 12:38:26</p>

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<p>1 tell me today? 12:38:28</p> <p>2 A. I am going to split hairs a little 12:38:29</p> <p>3 bit. Standing alone, if there were no other 12:38:35</p> <p>4 business strategies that Adams Golf employed, if 12:38:37</p> <p>5 this was Adams only business strategy, then I would 12:38:40</p> <p>6 agree with the question you just asked. However, 12:38:42</p> <p>7 there is a sort of synergy between this business 12:38:45</p> <p>8 strategy and its others that I believe made it 12:38:47</p> <p>9 unique. 12:38:50</p> <p>10 Q. Okay. And the uniqueness of Number 3, 12:38:53</p> <p>11 the pricing policies, was what? 12:38:58</p> <p>12 MR. COLLINS: Asked and answered. 12:39:00</p> <p>13 Go ahead. 12:39:01</p> <p>14 BY THE WITNESS: 12:39:02</p> <p>15 A. The uniqueness was that Adams Golf's 12:39:02</p> <p>16 pricing policies allowed for a retailer profit 12:39:05</p> <p>17 margin that was significantly higher than its 12:39:10</p> <p>18 competitors. 12:39:12</p> <p>19 BY MR. BESSETTE: 12:39:18</p> <p>20 Q. Okay. Now, you say strong and 12:39:18</p> <p>21 exclusive relationships with its distributors 12:39:43</p> <p>22 several times. You say it in Item 2 there. If you 12:39:47</p> <p>23 want to check, you say it in Paragraph 15 of your 12:39:51</p> <p>24 rebuttal report, a few pages later. And, in fact, 12:39:54</p>	<p>1 question one more time.</p> <p>2 BY MR. BESSETTE:</p> <p>3 Q. Can you point to the word "exclusive" 12:42:44</p> <p>4 on any of the pages you referenced? 12:42:48</p> <p>5 A. The word "exclusive" is a way of 12:42:51</p> <p>6 describing a limitation of a distribution to 12:43:47</p> <p>7 retailers that market premium quality golf 12:43:47</p> <p>8 equipment. 12:43:54</p> <p>9 Q. That's what you mean by exclusive 12:43:54</p> <p>10 relationships? 12:43:57</p> <p>11 A. Yes. 12:43:57</p> <p>12 Q. The word "exclusive" is not in there, 12:43:57</p> <p>13 is it? 12:44:03</p> <p>14 MR. COLLINS: By "there," just tell me 12:44:03</p> <p>15 what page you are talking about. 12:44:04</p> <p>16 BY MR. BESSETTE: 12:44:06</p> <p>17 Q. Any of the referenced pages that you 12:44:07</p> <p>18 cite in your report. 12:44:08</p> <p>19 A. I didn't just read the entirety of the 12:44:09</p> <p>20 prospectus, but it wasn't in the words that I read. 12:44:12</p> <p>21 Q. You also cite Exhibit 167. Is it 12:44:16</p> <p>22 there? 12:44:19</p> <p>23 A. Right, exactly. I didn't read the 12:44:19</p> <p>24 entirety of that document either, but it -- 12:44:21</p>
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<p>1 there you say the company states in its prospectus 12:40:00</p> <p>2 that it relied on strong and exclusive 12:40:07</p> <p>3 relationships. And you also say it in your initial 12:40:11</p> <p>4 report at Paragraph 20, Item C, strong and exclusive 12:40:13</p> <p>5 relationships, and then you cite some documents. 12:40:17</p> <p>6 MR. COLLINS: You are going too fast 12:40:20</p> <p>7 for me, sorry. Just give me a second. Okay. 12:40:21</p> <p>8 BY MR. BESSETTE: 12:40:21</p> <p>9 Q. Let me hand you at least one of the 12:40:24</p> <p>10 documents that you cite there, Exhibit 72, which is 12:40:39</p> <p>11 the prospectus. And I am going to try to find the 12:40:42</p> <p>12 others. I would like for you to -- here is 167. Go 12:40:45</p> <p>13 ahead and point to me where the company said it has 12:40:52</p> <p>14 exclusive relationships. 12:40:58</p> <p>15 A. It's been awhile since I looked at 12:40:58</p> <p>16 this, so give me a minute. 12:40:58</p> <p>17 Q. You have got the cites in Paragraph 20 12:41:13</p> <p>18 of your initial report. That's where you actually 12:41:16</p> <p>19 have the cites. 12:41:21</p> <p>20 A. Okay, great.</p> <p>21 (Off the record</p> <p>22 discussion.)</p> <p>23 BY THE WITNESS:</p> <p>24 A. You should probably give me the</p>	<p>1 Q. You cite pages. 12:44:23</p> <p>2 MR. COLLINS: No, wait. I'm sorry. 12:44:24</p> <p>3 Let's have a question. 12:44:25</p> <p>4 BY MR. BESSETTE: 12:44:26</p> <p>5 Q. Does it appear on any of the pages you 12:44:26</p> <p>6 cite in your report? 12:44:29</p> <p>7 MR. COLLINS: In Paragraph 20? 12:44:30</p> <p>8 MR. BESSETTE: Yes. 12:44:32</p> <p>9 MR. COLLINS: I think we just got -- 12:44:33</p> <p>10 BY THE WITNESS: 12:44:34</p> <p>11 A. Okay. As to Exhibit 167, I did read 12:44:35</p> <p>12 the entirety of that language, and no, it does not 12:44:38</p> <p>13 appear there. As to Exhibit 72, I didn't read the 12:44:41</p> <p>14 entirety of the language on page 24, but what I 12:44:44</p> <p>15 read, it does not appear there, but I think I 12:44:48</p> <p>16 explained what I meant by the word "exclusive." 12:44:50</p> <p>17 BY MR. BESSETTE: 12:44:53</p> <p>18 Q. Okay. Thank you. 12:44:53</p> <p>19 Exhibit 72, the prospectus, if you 12:45:04</p> <p>20 could turn the page to 25. 12:45:07</p> <p>21 MR. COLLINS: Can you wait just one 12:45:14</p> <p>22 second? 12:45:15</p> <p>23 MR. BESSETTE: Sure. 12:45:16</p> <p>24 12:45:16</p>

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<p>1 (Off the record 12:45:16  2 discussion.) 12:46:08  3 BY MR. BESSETTE: 12:46:08  4 Q. On page 25 under the company's 12:46:09  5 business strategy, Adams says its strategy -- 12:46:11  6 actually, its first priority is to build its share 12:46:15  7 of the premium fairway woods market. Would that 12:46:19  8 have been adversely impacted by gray market sales, 12:46:22  9 that strategy? 12:46:26  10 A. I am just reading the whole paragraph. 12:46:28  11 Q. Sure. 12:46:53  12 MR. COLLINS: I am sorry, this is cut 12:46:53  13 off on this page. It says WTH strategy. 12:46:56  14 THE WITNESS: Growth. 12:47:05  15 MR. COLLINS: Growth? I'm just asking 12:47:05  16 what the word is, growth strategy? 12:47:05  17 MR. BESSETTE: I think so. 12:47:06  18 MR. COLLINS: Okay. Thank you. 12:47:06  19 BY THE WITNESS: 12:47:06  20 A. Okay. And your question as to 12:47:08  21 the paragraph titled "Building Market Sharing  22 Fairway Woods" is what? 12:47:12  23 BY MR. BESSETTE: 12:47:12  24 Q. My question is with respect to Adams 12:47:12</p>	<p>1 BY MR. BESSETTE: 12:48:29  2 Q. The last strategy, developing new 12:48:30  3 technologies and product designs, would that have 12:48:32  4 been impacted adversely by gray market sales? 12:48:36  5 A. Yes. 12:49:25  6 Q. How is that? 12:49:25  7 A. Well, my initial reaction -- my first 12:49:26  8 thought was that developing new technologies and new 12:49:30  9 product designs can be very costly. That means that 12:49:36  10 the company's intentions, A, have to be focused on 12:49:40  11 new technologies and product designs, and not 12:49:44  12 elsewhere focused in areas such as combating gray 12:49:46  13 market activity. In addition, if the gray market 12:49:51  14 has impact on sales and profitability for the 12:49:54  15 company, the company's resources for developing new 12:49:57  16 technologies and product designs will be limited. 12:50:00  17 In addition, this paragraph also 12:50:03  18 says that they expect to -- somewhere it says they 12:50:05  19 rely on -- just a second. Let me see. It says 12:50:08  20 something about relying on -- oh, no. It said, if 12:50:12  21 it is received well by customers. The question of 12:50:15  22 whether or not a new product would be received well 12:50:19  23 by customers I think is likely to be influenced by 12:50:21  24 the perception of consumers of the brand image and 12:50:26</p>
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<p>1 Golf's business strategy to build market share in 12:47:17  2 fairway woods, would that have been adversely 12:47:20  3 impacted by gray market sales? 12:47:23  4 MR. COLLINS: Okay. And just so the 12:47:27  5 record is clear, it says growth strategy. That's 12:47:27  6 the section you are referring to? 12:47:29  7 MR. BESSETTE: Yeah. I think we are 12:47:31  8 on the same page. 12:47:32  9 BY THE WITNESS: 12:47:32  10 A. Yeah. So the first sentence, the 12:47:34  11 desire to build its share of premium fairway woods, 12:47:36  12 may have been affected by the gray market, yes. And 12:47:40  13 then as you go through the methods that it intends 12:47:43  14 to employ -- yeah, the methods it intends to employ 12:47:46  15 in order to do that, my answer would be yes again. 12:47:51  16 For example, relying on its 12:47:55  17 existing retailers to increase their sales would 12:47:58  18 definitely be impacted negatively by the existence 12:48:01  19 of the gray market. Increasing the number of on and 12:48:03  20 off golf course shop selected to sell Tight Lies 12:48:07  21 would also be impacted, because as we have discussed 12:48:12  22 already, golf retailers apparently believe that the 12:48:16  23 profit margin is essential to their decisions about 12:48:21  24 which golf products to carry and promote. 12:48:24</p>	<p>1 that can be, as we discussed, impacted negatively by 12:50:30  2 the gray market. 12:50:34  3 Q. So you are saying essentially if the 12:50:34  4 company is employing resources to deal with the gray 12:50:37  5 market, they are going to have less resources to 12:50:40  6 develop new technologies and designs? Is that what 12:50:43  7 you are saying? 12:50:45  8 MR. COLLINS: Mischaracterizes the 12:50:46  9 testimony. 12:50:48  10 You may answer. 12:50:48  11 BY THE WITNESS: 12:50:48  12 A. Assuming that the company has limited 12:50:49  13 resources, and those resources have to be allocated 12:50:51  14 to one activity or another. The more resources to 12:50:55  15 devoted to combating gray marketing activities, the 12:50:59  16 less resources available for other activities. 12:51:00  17 BY MR. BESSETTE: 12:51:02  18 Q. Okay. So that's how you are 12:51:02  19 concluding that gray market sales would impact or 12:51:04  20 could impact the growth strategy of developing new 12:51:08  21 technologies and designs? 12:51:12  22 MR. COLLINS: Mischaracterizes 12:51:13  23 testimony, asked and answered.  24 Go ahead.</p>

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<p>1 BY THE WITNESS:</p> <p>2 A. No.</p> <p>3 BY MR. BESSETTE:</p> <p>4 Q. How does gray market sales effect the 12:51:18</p> <p>5 company's efforts in this growth strategy of 12:51:21</p> <p>6 developing new technologies and design? 12:51:23</p> <p>7 MR. COLLINS: Asked and answered 12:51:23</p> <p>8 twice. 12:51:23</p> <p>9 Go ahead again. 12:51:24</p> <p>10 BY THE WITNESS: 12:51:25</p> <p>11 A. As I stated, it can divert the 12:51:25</p> <p>12 company's attention. It can limit the company's 12:51:29</p> <p>13 profitability. And it can impact the company's 12:51:32</p> <p>14 brand image, which can effect whether or not a 12:51:36</p> <p>15 product is received well by consumers. 12:51:39</p> <p>16 BY MR. BESSETTE: 12:51:42</p> <p>17 Q. Those are all long-term effects of 12:51:42</p> <p>18 gray marketing? Brand image suffering, lower 12:51:47</p> <p>19 profitability I think is what you said. Are those 12:51:54</p> <p>20 short or long-term effects of gray marketing? 12:51:57</p> <p>21 A. Those, as I have divided them in my 12:51:59</p> <p>22 reports, are long-term effects. 12:52:03</p> <p>23 Q. In 1998, Professor, where was Adams 12:52:32</p> <p>24 Golf's largest international market? 12:52:42</p>	<p>1 BY THE WITNESS: 12:53:48</p> <p>2 A. I didn't ask myself that particular 12:53:49</p> <p>3 question, no. 12:53:50</p> <p>4 BY MR. BESSETTE: 12:53:52</p> <p>5 Q. Now, on page -- I am sorry -- 12:54:24</p> <p>6 Paragraph 11 of your initial report -- 12:54:26</p> <p>7 MR. COLLINS: Did you say page or 12:54:38</p> <p>8 paragraph? 12:54:40</p> <p>9 MR. BESSETTE: Paragraph 11. 12:54:40</p> <p>10 MR. COLLINS: Thank you. 12:54:42</p> <p>11 BY MR. BESSETTE: 12:54:43</p> <p>12 Q. You cite Myers &amp; Griffith. Do you 12:54:47</p> <p>13 know what they have to say about what causes a gray 12:54:58</p> <p>14 market to thrive? 12:54:56</p> <p>15 A. Well, I think I certainly refer to 12:54:58</p> <p>16 this article in my report, but I didn't memorize the 12:55:04</p> <p>17 article. 12:55:12</p> <p>18 Q. Okay. I think they state that there 12:55:12</p> <p>19 are certain factors within management control and 12:55:14</p> <p>20 there are certain factors out of management control, 12:55:16</p> <p>21 both of which could cause a gray market to thrive. 12:55:18</p> <p>22 Do you agree with that generally? Does that sound 12:55:22</p> <p>23 familiar to you? 12:55:24</p> <p>24 MR. COLLINS: I am sorry, I don't know 12:55:25</p>
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<p>1 A. I believe Canada. 12:52:44</p> <p>2 Q. Canadian sales represented in 1998 12:52:45</p> <p>3 approximately what percentage of Adams' total sales, 12:52:54</p> <p>4 do you know? 12:52:57</p> <p>5 A. I am not remembering right now. 12:52:58</p> <p>6 Q. Does 2 percent sound about right? 12:53:00</p> <p>7 A. Again, I am not remembering right now. 12:53:02</p> <p>8 Q. Did you take that into account at all 12:53:05</p> <p>9 in your coming to your conclusions, that is the size 12:53:10</p> <p>10 of the largest international market for Adams Golf? 12:53:15</p> <p>11 MR. COLLINS: Overbroad, vague and 12:53:19</p> <p>12 ambiguous. 12:53:21</p> <p>13 Go ahead. 12:53:23</p> <p>14 BY THE WITNESS: 12:53:23</p> <p>15 A. Can I ask you to restate the question? 12:53:27</p> <p>16 BY MR. BESSETTE: 12:53:29</p> <p>17 Q. Yes. 12:53:30</p> <p>18 Did the size of Adams Golf's 12:53:34</p> <p>19 largest international market in 1998, did you take 12:53:38</p> <p>20 that into account at all in reaching any of your 12:53:42</p> <p>21 opinions and conclusions in this case? 12:53:45</p> <p>22 MR. COLLINS: Overbroad. 12:53:46</p> <p>23 Go ahead. 12:53:47</p> <p>24</p>	<p>1 what question you are asking. Does it sound 12:55:25</p> <p>2 familiar or does she agree with the concept? 12:55:29</p> <p>3 BY MR. BESSETTE: 12:55:32</p> <p>4 Q. Do you understand my question? 12:55:32</p> <p>5 MR. COLLINS: Vague and ambiguous. 12:55:33</p> <p>6 BY THE WITNESS: 12:55:33</p> <p>7 A. I was actually going to ask you which 12:55:35</p> <p>8 of those you were asking. 12:55:36</p> <p>9 BY MR. BESSETTE: 12:55:37</p> <p>10 Q. Are you familiar with the concept of 12:55:38</p> <p>11 factors within management control and some factors 12:55:40</p> <p>12 outside of management control, both of which help a 12:55:43</p> <p>13 gray market to thrive -- 12:55:46</p> <p>14 A. Yes. 12:55:47</p> <p>15 Q. -- as stated by Myers &amp; Griffith? 12:55:48</p> <p>16 A. Yes. 12:55:51</p> <p>17 Q. What are some examples of factors 12:55:51</p> <p>18 within management control that cause gray markets to 12:55:55</p> <p>19 thrive, according to Myers &amp; Griffith? 12:55:58</p> <p>20 MR. COLLINS: The document speaks for 12:56:00</p> <p>21 itself. 12:56:01</p> <p>22 If you remember, go ahead and 12:56:02</p> <p>23 answer. 12:56:04</p> <p>24</p>

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<p>1 BY THE WITNESS: 12:56:04</p> <p>2 A. I don't remember exactly what Myers &amp; 12:56:05</p> <p>3 Griffith -- what Myers &amp; Griffith's analysis of that 12:56:08</p> <p>4 question is. 12:56:08</p> <p>5 BY MR. BESSETTE: 12:56:11</p> <p>6 Q. Okay. Do you recall them saying that 12:56:11</p> <p>7 over production is one factor within management 12:56:12</p> <p>8 control that causes gray markets to thrive? 12:56:15</p> <p>9 A. Again, I don't recall that Myers &amp; 12:56:19</p> <p>10 Griffith stated that, but that would certainly be 12:56:22</p> <p>11 one. 12:56:24</p> <p>12 Q. Do you have any evidence that Adams 12:56:24</p> <p>13 Golf overproduced clubs? 12:56:29</p> <p>14 A. Overproduced, no. 12:56:29</p> <p>15 Q. By the way, does Adams by definition 12:56:30</p> <p>16 have any control over factors that are outside of 12:56:35</p> <p>17 management's control that cause gray markets to 12:56:38</p> <p>18 thrive? 12:56:40</p> <p>19 A. By definition, no. 12:56:40</p> <p>20 Q. In practice, have you seen that? I'm 12:56:42</p> <p>21 sorry, in academic literature have you seen to the 12:56:47</p> <p>22 contrary any indications that something 12:56:50</p> <p>23 characterized as outside of management control 12:56:53</p> <p>24 management really does have control over? 12:56:56</p>	<p>1 securities in the company without the company going 12:58:29</p> <p>2 through the same rigorous disclosure requirements 12:58:31</p> <p>3 that are required under the securities laws. 12:58:34</p> <p>4 Q. Okay. So the involvement you had in 12:58:37</p> <p>5 the one you just talked about was as a summer 12:58:44</p> <p>6 associate. So you were not a lawyer at the time? 12:58:48</p> <p>7 A. Correct. 12:58:50</p> <p>8 Q. And it was an offering that didn't 12:58:50</p> <p>9 have the same disclosure requirements as the 12:58:52</p> <p>10 securities laws that govern IPOs in the United 12:58:56</p> <p>11 States. Do I understand that right? 12:59:00</p> <p>12 MR. COLLINS: Calls for a legal 12:59:01</p> <p>13 conclusion. 12:59:03</p> <p>14 BY MR. BESSETTE: 12:59:03</p> <p>15 Q. To the best of your understanding? 12:59:04</p> <p>16 MR. COLLINS: Foundation. 12:59:05</p> <p>17 Go ahead. 12:59:07</p> <p>18 BY THE WITNESS: 12:59:07</p> <p>19 A. To the best of my understanding -- 12:59:07</p> <p>20 actually, if you can restate the question, that 12:59:09</p> <p>21 would be great. Can you read it back? 12:59:11</p> <p>22 MR. BESSETTE: Can you repeat it, 12:59:11</p> <p>23 please? 12:59:11</p> <p>24 (Record read.) 12:59:26</p>
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<p>1 A. Not that I recall, though I can 12:57:04</p> <p>2 imagine -- sitting here and speculating, I could 12:57:07</p> <p>3 imagine, for example, that a company might take on 12:57:10</p> <p>4 lobbying efforts to try to effect sort of larger 12:57:14</p> <p>5 economic conditions that might make gray marketing 12:57:18</p> <p>6 viable, but that's speculative. 12:57:23</p> <p>7 Q. Have you ever been involved in any 12:57:24</p> <p>8 IPOs? 12:57:28</p> <p>9 A. Yes. 12:57:29</p> <p>10 Q. How many? 12:57:33</p> <p>11 A. One. 12:57:34</p> <p>12 Q. Which one was that? 12:57:35</p> <p>13 A. I don't remember the name of the 12:57:36</p> <p>14 company. It was a Polish copper extraction and 12:57:38</p> <p>15 production company. I was involved with its IPO 12:57:44</p> <p>16 when I was a summer associate at Clifford Chance. 12:57:51</p> <p>17 Q. Was this a company traded on an 12:57:56</p> <p>18 American exchange? 12:58:01</p> <p>19 A. I think it was a 144(a) offering. 12:58:01</p> <p>20 Q. And what's that? 12:58:04</p> <p>21 A. If I can remember. A 144(a) offering 12:58:05</p> <p>22 allows for qualified investors to purchase 12:58:12</p> <p>23 securities without the company -- I'm sorry. 12:58:20</p> <p>24 Qualified investors in the United States to purchase 12:58:25</p>	<p>1 BY THE WITNESS: 12:59:26</p> <p>2 A. Yeah. I am just going to say I'm not 12:59:27</p> <p>3 entirely sure, because I don't actually remember the 12:59:29</p> <p>4 law on whether United States companies can offer 12:59:32</p> <p>5 shares through 144(a) offering by doing it through a 12:59:35</p> <p>6 foreign subsidiary, for example. So I can't answer 12:59:38</p> <p>7 with all sureness yes or no. 12:59:45</p> <p>8 MR. COLLINS: Excuse me. We need to 12:59:48</p> <p>9 break when it is convenient. 12:59:49</p> <p>10 MR. BESSETTE: Okay. 12:59:51</p> <p>11 BY MR. BESSETTE: 12:59:57</p> <p>12 Q. Have you ever counseled companies in 12:59:58</p> <p>13 any of their -- in disclosure documents? In other 13:00:02</p> <p>14 words, what companies need to put in various 13:00:05</p> <p>15 disclosure documents? Do you have that background? 13:00:08</p> <p>16 A. In connection with that same 13:00:11</p> <p>17 transaction, I was not the person in contact with 13:00:13</p> <p>18 clients, but I was reviewing company documents and 13:00:17</p> <p>19 trying to make some effort of determining what was 13:00:22</p> <p>20 and was not relevant and material to investors. 13:00:27</p> <p>21 Q. And this was as a second year law 13:00:30</p> <p>22 student? 13:00:33</p> <p>23 A. No. This -- all right. I should have 13:00:33</p> <p>24 let you finish. 13:00:33</p>

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<p>1 No, this was as a -- yes, the 13:00:37</p> <p>2 summer after my second year of law school. 13:00:40</p> <p>3 Q. Right. Okay. So other than that 13:00:42</p> <p>4 experience as a summer associate, intern, whatever 13:00:45</p> <p>5 you want to call it, do you have any other 13:00:49</p> <p>6 experience counseling companies as to the disclosure 13:00:52</p> <p>7 requirements of the Securities &amp; Exchange 13:00:56</p> <p>8 Commission? 13:01:00</p> <p>9 A. I am just trying to recollect the body 13:01:00</p> <p>10 of work that I did when I was working for Chance, 13:01:06</p> <p>11 because I did other securities work. And I just am 13:01:09</p> <p>12 hesitant to say absolutely not, but to the best of 13:01:15</p> <p>13 my recollection, no. 13:01:19</p> <p>14 MR. BESSETTE: I think this is a fine 13:01:33</p> <p>15 place to stop. 13:01:34</p> <p>16 (Break taken.) 13:40:50</p> <p>17 BY MR. BESSETTE: 13:40:50</p> <p>18 Q. How many clubs were sold pre IPO at 13:40:51</p> <p>19 Costco, do you know? 13:40:55</p> <p>20 MR. COLLINS: Vague and ambiguous. 13:40:57</p> <p>21 BY THE WITNESS: 13:40:57</p> <p>22 A. The numbers are difficult to actually 13:41:01</p> <p>23 determine. But I reviewed the Costco figures, and I 13:41:06</p> <p>24 believe the amount is 3,917. I have the exact 13:41:08</p>	<p>1 Q. Now, is it your -- let me ask this: 13:42:12</p> <p>2 That number, that relatively small number as you 13:42:31</p> <p>3 admit in your report, by itself, that number of 13:42:38</p> <p>4 clubs being sold at Costco, was that material in 13:42:41</p> <p>5 your mind as an expert witness in gray marketing? 13:42:45</p> <p>6 MR. COLLINS: Vague and ambiguous. 13:42:48</p> <p>7 BY THE WITNESS: 13:42:50</p> <p>8 A. The number standing alone may or may 13:42:51</p> <p>9 not be material. 13:42:53</p> <p>10 BY MR. BESSETTE: 13:42:54</p> <p>11 Q. I understand your opinion is that when 13:42:55</p> <p>12 viewed -- that number, when viewed with the 13:42:59</p> <p>13 company's business model as we've talked about this 13:43:05</p> <p>14 morning, in your mind, made the risk of gray 13:43:07</p> <p>15 marketing material at the time of the IPO? 13:43:12</p> <p>16 A. That also in combination with the 13:43:14</p> <p>17 trend of the gray marketing sales that was occurring 13:43:17</p> <p>18 at the time, yes. 13:43:21</p> <p>19 Q. And let me ask you, do you -- just to 13:43:21</p> <p>20 be sure. You have not, as a professional, as an 13:43:37</p> <p>21 attorney, advised a client as to what was material 13:43:42</p> <p>22 or what was not material which would go in an 13:43:49</p> <p>23 offering document, is that -- do I understand that 13:43:53</p> <p>24 correctly or at least you can't remember doing that? 13:43:55</p>
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<p>1 number in my report. 13:41:19</p> <p>2 BY MR. BESSETTE: 13:41:19</p> <p>3 Q. I think it's 3,860, but give or take. 13:41:19</p> <p>4 Somewhere in the 3,900 range. 13:41:19</p> <p>5 Do you know the breakdown of that 13:41:21</p> <p>6 number between U.S. and Canada? 13:41:22</p> <p>7 A. I believe it was something like 13:41:24</p> <p>8 82 percent of those clubs were sold in the United 13:41:26</p> <p>9 States, and the remainder was in Canada. 83, 82 13:41:29</p> <p>10 something like that. 13:41:34</p> <p>11 Q. So 3,200 or so in the U.S. and 600 in 13:41:34</p> <p>12 Canada is I think the breakdown. 13:41:38</p> <p>13 A. I am not comfortable with the numbers, 13:41:41</p> <p>14 because I am not doing the math right now, but yeah, 13:41:44</p> <p>15 something like that. 13:41:48</p> <p>16 Q. And I think you said in your report 13:41:48</p> <p>17 that that's a relatively small number compared with 13:41:50</p> <p>18 Adams total pre IPO 1998 sales? 13:41:55</p> <p>19 A. Yes. 13:41:57</p> <p>20 Q. And do you know what the number of 13:41:58</p> <p>21 Adams pre 1998 -- I am sorry -- 1998 pre IPO sales 13:42:00</p> <p>22 were in terms of units? 13:42:07</p> <p>23 A. I believe it was somewhere under 13:42:08</p> <p>24 500,000. 13:42:11</p>	<p>1 MR. COLLINS: I think it is asked and 13:43:58</p> <p>2 answered. 13:44:00</p> <p>3 BY THE WITNESS: 13:44:00</p> <p>4 A. Yeah. I have reviewed company 13:44:00</p> <p>5 documents trying to look for and flag issues that 13:44:04</p> <p>6 might be material that I would pull out, but only on 13:44:08</p> <p>7 occasion and -- yeah. 13:44:16</p> <p>8 BY MR. BESSETTE: 13:44:20</p> <p>9 Q. And you have no experience as a deal 13:44:20</p> <p>10 attorney, actually, any experience as a deal 13:44:24</p> <p>11 attorney as opposed to a summer associate making 13:44:27</p> <p>12 calls of materiality in documents to be filed with 13:44:30</p> <p>13 the SEC and advising clients of that? 13:44:34</p> <p>14 A. Yeah. I actually would like to go 13:44:37</p> <p>15 back to my answer to that question previously, 13:44:38</p> <p>16 because in thinking about it, I remember a dismal 13:44:40</p> <p>17 day that I think might rather be forgotten that I 13:44:46</p> <p>18 spent in Buffalo, New York, in a dark conference 13:44:51</p> <p>19 room sifting through documents for materials -- for 13:44:53</p> <p>20 documents I thought might be material to investors, 13:44:56</p> <p>21 but I can't remember anything else about the deal. 13:44:58</p> <p>22 Q. Okay. And I am drawing a distinction, 13:45:00</p> <p>23 I am not talking about reviewing documents that you 13:45:03</p> <p>24 personally thought were material. I am talking 13:45:05</p>

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<p>1 about advising a client as a lawyer what is and what 13:45:08</p> <p>2 is not material in your opinion that is what should 13:45:12</p> <p>3 or should not go in an offering document that will 13:45:14</p> <p>4 be filed with the SEC. You don't have any 13:45:17</p> <p>5 experience doing that? 13:45:21</p> <p>6 A. That's correct. 13:45:22</p> <p>7 Q. And your -- the basis of you drawing 13:45:22</p> <p>8 opinions about materiality of the gray market in 13:45:32</p> <p>9 this case, I think as we have established, is your 13:45:35</p> <p>10 teaching the classes for the last three years and 13:45:38</p> <p>11 reviewing the articles that you have cited and that 13:45:40</p> <p>12 in additional ones that you used in comparing your 13:45:45</p> <p>13 class, is that right? 13:45:48</p> <p>14 MR. COLLINS: Asked and answered. 13:45:48</p> <p>15 Go ahead. 13:45:49</p> <p>16 BY THE WITNESS: 13:45:50</p> <p>17 A. Yes. My hesitation is because there 13:45:53</p> <p>18 was obviously also information that I read in 13:45:58</p> <p>19 preparation for this -- in connection with this 13:45:59</p> <p>20 litigation. 13:46:03</p> <p>21 BY MR. BESSETTE: 13:46:04</p> <p>22 Q. Sure. All right. Fair enough. 13:46:05</p> <p>23 When did Adams Golf learn -- 13:46:19</p> <p>24 13:46:19</p>	<p>1 A. I believe it could have been higher. 13:51:08</p> <p>2 Q. I guess it could have been lower, too, 13:51:10</p> <p>3 but I mean, what's that based on? 13:51:13</p> <p>4 A. I'm not sure that it could have been 13:51:15</p> <p>5 lower. These eight documents are undeniably in 13:51:17</p> <p>6 existence. The company was organized in a way that 13:51:22</p> <p>7 had I believe they were called regional account 13:51:25</p> <p>8 coordinators going out into the field to talk with 13:51:26</p> <p>9 all of the company's authorized retailers and 13:51:29</p> <p>10 distributors. And I would imagine that an awful lot 13:51:32</p> <p>11 of complaints came to the company through 13:51:35</p> <p>12 conversations between retailers and distributors and 13:51:38</p> <p>13 those regional account coordinators in a way that 13:51:41</p> <p>14 may not ever have been documented through formal 13:51:42</p> <p>15 communication. 13:51:45</p> <p>16 Q. Okay. Do you factor into your 13:51:46</p> <p>17 opinions or conclusions in this case any assumptions 13:52:01</p> <p>18 that there were a higher number of complaints than 13:52:04</p> <p>19 that indicated here? 13:52:06</p> <p>20 A. I didn't rely on it because it is 13:52:08</p> <p>21 somewhat speculative. 13:52:12</p> <p>22 Q. Somewhat or completely? 13:52:13</p> <p>23 A. It is speculative. 13:52:15</p> <p>24 Q. So you haven't taken that into 13:52:16</p>
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<p>1 (Off the record 13:46:19</p> <p>2 discussion.) 13:46:19</p> <p>3 BY MR. BESSETTE: 13:46:19</p> <p>4 Q. Professor, do you know how many Adams 13:50:06</p> <p>5 Golf distributors or retailers complained to it pre 13:50:10</p> <p>6 IPO about gray marketing? 13:50:14</p> <p>7 A. I think that's impossible to know. 13:50:16</p> <p>8 Q. You have seen references in many of 13:50:19</p> <p>9 your readings in this case? 13:50:21</p> <p>10 A. I have seen some references, yes. 13:50:22</p> <p>11 Q. Why don't you look at Professor 13:50:24</p> <p>12 Frazier's report, Paragraph 40, where he writes 13:50:27</p> <p>13 there were a total of eight out of some 7,000 13:50:44</p> <p>14 retailers complained, and he cites the Grace report. 13:50:48</p> <p>15 Do you see that? 13:50:51</p> <p>16 A. Uh-huh. 13:50:51</p> <p>17 Q. And you have read the Grace report? 13:50:51</p> <p>18 A. I have. 13:50:53</p> <p>19 Q. Okay. Do you have any knowledge that 13:50:54</p> <p>20 the number of complaints was higher or lower than 13:50:56</p> <p>21 this? 13:50:59</p> <p>22 A. Concrete knowledge, no. 13:50:59</p> <p>23 Q. So I take it from your answer you have 13:51:06</p> <p>24 a view that it was higher? 13:51:07</p>	<p>1 account? 13:52:18</p> <p>2 A. No. 13:52:19</p> <p>3 Q. All right. So the number of 13:52:19</p> <p>4 complaints that we have documentary evidence of is 13:52:20</p> <p>5 the give or take eight out of 7,000 retailers or 13:52:24</p> <p>6 distributors complaining. Is that a high number in 13:52:31</p> <p>7 your view? 13:52:34</p> <p>8 MR. COLLINS: Vague and ambiguous. 13:52:34</p> <p>9 BY THE WITNESS: 13:52:37</p> <p>10 A. Again, as a number of issues in this 13:52:37</p> <p>11 case, it was not the number so much that was 13:52:40</p> <p>12 concerning to me, as the content of those 13:52:42</p> <p>13 complaints. 13:52:42</p> <p>14 BY MR. BESSETTE: 13:52:43</p> <p>15 Q. Okay. Does the number of -- let me 13:52:43</p> <p>16 ask you this. Is that a low number of complaints -- 13:52:44</p> <p>17 well, strike that. 13:52:44</p> <p>18 Actually, going back to 40 where 13:52:48</p> <p>19 Professor Frazier says in the second sentence that, 13:52:51</p> <p>20 "This is an incredibly low number of complaints and 13:52:56</p> <p>21 in no way indicates the existence of degraded 13:53:01</p> <p>22 relationships with Adams Golf's authorized retail 13:53:01</p> <p>23 network," do you disagree with that statement? 13:53:12</p> <p>24 A. I don't disagree with the first part. 13:53:13</p>

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<p>1 It is incredible. I do disagree with the second 13:53:17</p> <p>2 part, that it indicates -- I'm sorry -- that it in 13:53:20</p> <p>3 no way indicates the existence of degraded 13:53:26</p> <p>4 relationships. I definitely disagree with that. 13:53:31</p> <p>5 Q. Okay. And how so? 13:53:33</p> <p>6 A. The communications themselves 13:53:34</p> <p>7 indicated the existence of degraded relationships. 13:53:37</p> <p>8 Q. With those particular complaining 13:53:40</p> <p>9 retailers or distributors? 13:53:42</p> <p>10 A. For example, the WDC Mackenzie 13:53:43</p> <p>11 communications represent not just WDC Mackenzie, but 13:53:46</p> <p>12 a number of authorized retailers. I believe one of 13:53:50</p> <p>13 the reports from WDC Mackenzie or a recapitulation 13:53:53</p> <p>14 of communications with WDC Mackenzie indicate that 13:53:59</p> <p>15 retailers up north, meaning Canada, were highly 13:54:01</p> <p>16 dissatisfied about the existence of gray marketing. 13:54:05</p> <p>17 In addition, there is evidence in the record that 13:54:09</p> <p>18 the retailers were -- the retailers in Canada were 13:54:13</p> <p>19 significantly concerned and unhappy, such that the 13:54:21</p> <p>20 company had to take action to try to regain their 13:54:25</p> <p>21 loyalty. 13:54:29</p> <p>22 Q. How many retailers in Canada are you 13:54:33</p> <p>23 aware of that were dissatisfied? 13:54:35</p> <p>24 A. I don't know. 13:54:37</p>	<p>1 A. I did not read all of it word for 13:55:58</p> <p>2 word, no. 13:56:01</p> <p>3 Q. Well, if a particular individual who 13:56:02</p> <p>4 wrote a memo then gave testimony under oath about 13:56:04</p> <p>5 what he meant in that memo, did you take the time to 13:56:08</p> <p>6 read that? 13:56:12</p> <p>7 MR. COLLINS: Overbroad, vague and 13:56:13</p> <p>8 ambiguous. 13:56:16</p> <p>9 Go ahead. 13:56:17</p> <p>10 BY THE WITNESS: 13:56:17</p> <p>11 A. In most instances, yes. 13:56:18</p> <p>12 Can I just actually add one 13:56:18</p> <p>13 thing -- 13:56:18</p> <p>14 BY MR. BESSETTE: 13:56:18</p> <p>15 Q. Sure. 13:56:18</p> <p>16 A. -- about the degraded relationships? 13:56:28</p> <p>17 One of the -- and I, again, here I 13:56:30</p> <p>18 am not remembering whether it was an internal 13:56:32</p> <p>19 company memo or whether it was a communication from 13:56:34</p> <p>20 WDC Mackenzie or another Canadian -- whether it was 13:56:39</p> <p>21 from WDC Mackenzie or whether it was an internal 13:56:46</p> <p>22 memo, but there was in a document significant 13:56:47</p> <p>23 concern that the company stood to lose its goodwill 13:56:50</p> <p>24 in Canada. That I think is very good evidence of 13:56:53</p>
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<p>1 Q. Any other reason why you disagree with 13:54:40</p> <p>2 the second part of that second sentence in Professor 13:54:46</p> <p>3 Frazier's report? 13:54:51</p> <p>4 A. The reason I disagree is that the 13:54:56</p> <p>5 communications I think did indicate degraded 13:54:59</p> <p>6 relationships. 13:55:01</p> <p>7 Q. And is it the nature or the number of 13:55:03</p> <p>8 communications or exactly what about the 13:55:11</p> <p>9 communications, in your mind, evidences a degraded 13:55:14</p> <p>10 relationship with Adams Golf's authorized retail 13:55:18</p> <p>11 network? 13:55:22</p> <p>12 A. The content of the communications. 13:55:22</p> <p>13 Q. What do you mean? 13:55:24</p> <p>14 A. What they concerned. So -- and it 13:55:25</p> <p>15 wasn't -- now we are talking about the content of 13:55:30</p> <p>16 communications. So it wasn't just the 13:55:33</p> <p>17 communications from retailers and distributors that 13:55:35</p> <p>18 Adams was receiving, but also the reactions that 13:55:38</p> <p>19 that inspired within Adams. The alarm that that 13:55:41</p> <p>20 inspired within Adams that is evidenced in the 13:55:46</p> <p>21 company's memos at the time. 13:55:51</p> <p>22 Q. By the way, did you ever review the 13:55:52</p> <p>23 deposition testimony of the authors of any of those 13:55:54</p> <p>24 memos? 13:55:57</p>	<p>1 degraded relationships. 13:56:56</p> <p>2 Q. Okay. Do you remember reading the 13:57:03</p> <p>3 testimony of, I think Mr. Beebe was the author of 13:57:05</p> <p>4 that memo? Do you remember reading his testimony 13:57:08</p> <p>5 about what he meant when he wrote that? 13:57:11</p> <p>6 A. I read parts of his testimony, yes. 13:57:14</p> <p>7 Q. Did you read the parts about what he 13:57:15</p> <p>8 meant when he wrote that that you just talked about? 13:57:19</p> <p>9 A. I don't remember exactly what he said 13:57:21</p> <p>10 in response. 13:57:23</p> <p>11 Q. Do you know sitting here whether you 13:57:24</p> <p>12 took that into account? 13:57:26</p> <p>13 A. Yes. 13:57:27</p> <p>14 Q. How did you do that? 13:57:28</p> <p>15 A. I looked -- I gave significantly more 13:57:29</p> <p>16 weight to the contemporaneous writings of the author 13:57:32</p> <p>17 rather than his recollections eight years later. 13:57:37</p> <p>18 while he was being asked about the document in 13:57:40</p> <p>19 connection with litigation. 13:57:44</p> <p>20 Q. Why is that? 13:57:45</p> <p>21 A. Because at the time, the issue was 13:57:46</p> <p>22 pertinent to the company. At the time, the 13:57:51</p> <p>23 reaction, both the visceral and the rationale 13:57:54</p> <p>24 reaction that the company and individuals within the 13:57:58</p>

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<p>1 company were having in reaction to the gray market I 13:58:01</p> <p>2 thought was very significant, especially when we are 13:58:04</p> <p>3 trying to make a determination of whether or not the 13:58:07</p> <p>4 gray market was posing a serious problem to the 13:58:09</p> <p>5 company. 13:58:12</p> <p>6 Q. But why take the words somebody wrote 13:58:12</p> <p>7 and discount what the author of those words 13:58:15</p> <p>8 testified under oath he meant? 13:58:19</p> <p>9 A. Yes. There are a couple of reasons. 13:58:20</p> <p>10 One is that memory is faulty. Memory is especially 13:58:23</p> <p>11 faulty when you've got the benefit of hindsight. 13:58:27</p> <p>12 And I think there -- I don't know Mr. Beebe well 13:58:30</p> <p>13 enough to know whether there might have been some 13:58:33</p> <p>14 self interest involved as well, to sort of spin or 13:58:36</p> <p>15 present his testimony in a particular fashion. 13:58:40</p> <p>16 Q. So you made a credibility call that 13:58:42</p> <p>17 you were going to take the words of the document and 13:58:44</p> <p>18 discount the testimony under oath of the author of 13:58:47</p> <p>19 that document? 13:58:51</p> <p>20 A. I'm not so sure it's really a 13:58:52</p> <p>21 credibility call. Again, I have never met 13:58:53</p> <p>22 Mr. Beebe, I don't know anything about his 13:58:58</p> <p>23 credibility. It is really a matter of wanting to 13:59:00</p> <p>24 place significant weight on the issues and the 13:59:06</p>	<p>1 contemporaneous memos are highly relevant in that 14:00:19</p> <p>2 respect. 14:00:24</p> <p>3 BY MR. BESSETTE: 14:00:24</p> <p>4 Q. Sure. But don't you run the risk of 14:00:24</p> <p>5 taking something out of context without knowing the 14:00:25</p> <p>6 actual context in which the author wrote it? 14:00:30</p> <p>7 A. There was a lot of context in the 14:00:31</p> <p>8 document that I received. 14:00:33</p> <p>9 Q. I see. So you just -- you made a 14:00:34</p> <p>10 judgment call to discount what the author of these 14:00:37</p> <p>11 documents said under oath that he meant when he 14:00:41</p> <p>12 wrote them, in favor of the plain language in the 14:00:45</p> <p>13 document? 14:00:48</p> <p>14 MR. COLLINS: Asked and answered. 14:00:48</p> <p>15 Go ahead. 14:00:49</p> <p>16 BY THE WITNESS: 14:00:49</p> <p>17 A. Yeah. I think I have answered that. 14:00:50</p> <p>18 BY MR. BESSETTE: 14:00:51</p> <p>19 Q. Well, I need an answer to my question. 14:00:51</p> <p>20 MR. COLLINS: It's been asked and 14:00:51</p> <p>21 answered. 14:00:51</p> <p>22 BY THE WITNESS: 14:00:54</p> <p>23 A. Can you restate it for me? 14:00:54</p> <p>24 (Record read.) 14:00:54</p>
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<p>1 seriousness with which the company was taking the 13:59:08</p> <p>2 issue at the time when it was preparing for its 13:59:11</p> <p>3 initial public offering. 13:59:13</p> <p>4 MR. BESSETTE: Can you read that back, 13:59:13</p> <p>5 please? 13:59:13</p> <p>6 (Record read.) 13:59:13</p> <p>7 BY MR. BESSETTE: 13:59:36</p> <p>8 Q. What do you mean by wanting to place 13:59:36</p> <p>9 significant weight on? 13:59:42</p> <p>10 A. What I mean is that given -- that one 13:59:43</p> <p>11 of the assessments that I was trying to make was 13:59:45</p> <p>12 whether or not the company was facing a serious 13:59:47</p> <p>13 significant gray market problem. I wanted to know 13:59:50</p> <p>14 how it was the company itself viewed its gray market 13:59:56</p> <p>15 problem at the time. 14:00:00</p> <p>16 Q. Well, I understand that, but why then 14:00:01</p> <p>17 put more weight on a document than the author of the 14:00:04</p> <p>18 document explaining under oath what he meant when he 14:00:07</p> <p>19 wrote it? 14:00:11</p> <p>20 MR. COLLINS: Asked and answered. 14:00:11</p> <p>21 BY THE WITNESS: 14:00:11</p> <p>22 A. Because what I was looking for was the 14:00:14</p> <p>23 views of the company at the time, and the company's 14:00:15</p> <p>24 officials at the time. And again, I think that 14:00:17</p>	<p>1 BY THE WITNESS: 14:00:54</p> <p>2 A. Yes. 14:00:54</p> <p>3 BY MR. BESSETTE: 14:01:24</p> <p>4 Q. Let me hand you what has been marked 14:01:24</p> <p>5 previously in this litigation as Exhibit 85. And 14:01:33</p> <p>6 you talk about that document in Paragraph 15A of 14:01:38</p> <p>7 your initial report, and 36 of your rebuttal report, 14:01:41</p> <p>8 if you want to turn there for context. 14:01:47</p> <p>9 MR. COLLINS: 15A and 36? 14:01:47</p> <p>10 MR. BESSETTE: Correct. 14:01:47</p> <p>11 BY THE WITNESS: 14:02:52</p> <p>12 A. Okay. 14:02:52</p> <p>13 BY MR. BESSETTE: 14:02:52</p> <p>14 Q. You note in your report that Mr. Beebe 14:02:52</p> <p>15 here wrote that the first shipment of Adam's clubs 14:03:04</p> <p>16 caused a great of trouble for the Canadian 14:03:08</p> <p>17 distributor and authorized retailers. Mr. Beebe 14:03:13</p> <p>18 says, I guess in the last sentence of the second 14:03:18</p> <p>19 paragraph, "The clubs had also through by the end of 14:03:24</p> <p>20 60 days, so our distributors only had to deal with 14:03:32</p> <p>21 10 or so returns from angry retailers." Does that 14:03:36</p> <p>22 imply to you, Professor, that the issue was 14:03:41</p> <p>23 relatively minor at this point in time? 14:03:42</p> <p>24 MR. COLLINS: And for reference's 14:03:44</p>

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<p>1 sake, Paul was just referring to Exhibit 85. 14:03:46</p> <p>2 Go ahead. 14:03:48</p> <p>3 MR. BESSETTE: Yeah. Sorry. That's 14:03:48</p> <p>4 the sentence I read. 14:03:48</p> <p>5 BY THE WITNESS: 14:03:50</p> <p>6 A. Let me read that paragraph. 14:03:50</p> <p>7 BY MR. BESSETTE: 14:04:26</p> <p>8 Q. Mr. Beebe's sentence that the clubs 14:04:27</p> <p>9 had also through by the end of 60 days, and the 14:04:31</p> <p>10 distributors only had to deal with 10 or so returns 14:04:32</p> <p>11 from angry retailers, does that imply to you that at 14:04:32</p> <p>12 least the problem seemed relatively minor at this 14:04:38</p> <p>13 point to Mr. Beebe? 14:04:40</p> <p>14 A. No. I think that's taking that 14:04:41</p> <p>15 sentence out of the context of the entire letter. 14:04:46</p> <p>16 Q. Okay. How is that? Well, let me ask 14:04:49</p> <p>17 you: What does he mean by that? 14:04:52</p> <p>18 MR. COLLINS: Calls for speculation. 14:04:54</p> <p>19 BY MR. BESSETTE: 14:04:56</p> <p>20 Q. Did you read his deposition to see 14:04:57</p> <p>21 what he meant when he wrote that? 14:04:59</p> <p>22 A. I read parts of his deposition. I 14:05:02</p> <p>23 don't remember all of what I read. 14:05:05</p> <p>24 Q. Okay. In coming to your conclusions 14:05:07</p>	<p>1 context if you need to. 14:06:55</p> <p>2 MR. COLLINS: 17, 33?</p> <p>3 MR. BESSETTE: Uh-huh.</p> <p>4 BY THE WITNESS:</p> <p>5 A. Okay.</p> <p>6 BY MR. BESSETTE:</p> <p>7 Q. I have handed you what has been marked 14:06:56</p> <p>8 previously in this litigation as Exhibit 10, a memo 14:06:59</p> <p>9 from Chris Beebe to WDC Mackenzie dated June 8, 14:07:05</p> <p>10 1998. You refer to in Paragraph 17 of your initial 14:07:12</p> <p>11 report, and 33 of your rebuttal report, where you 14:07:16</p> <p>12 describe the plan that Adams put in place to deter 14:07:20</p> <p>13 the sale of clubs in Canada. Now, Mr. Beebe here 14:07:24</p> <p>14 notes in the first -- I don't know if it is a bullet 14:07:28</p> <p>15 point or a little dash, whatever. 14:07:32</p> <p>16 MR. COLLINS: On Exhibit 10. 14:07:33</p> <p>17 BY MR. BESSETTE: 14:07:35</p> <p>18 Q. On Exhibit 10, that the plan being put 14:07:35</p> <p>19 in place only applies to the retailers that 14:07:37</p> <p>20 Mackenzie determines are affected by the gray 14:07:42</p> <p>21 marketing issue based on location, etcetera. Do you 14:07:45</p> <p>22 see that? 14:07:49</p> <p>23 A. Yes. 14:07:49</p> <p>24 Q. Does that suggest that only a subset 14:07:49</p>
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<p>1 and opinions in this case, do you factor in that 14:05:10</p> <p>2 sentence at all? 14:05:12</p> <p>3 A. Yes. 14:05:13</p> <p>4 Q. How? 14:05:14</p> <p>5 A. It is part of the mix of information 14:05:15</p> <p>6 that I reviewed and analyzed. 14:05:20</p> <p>7 Q. What impact does it have, if at all, 14:05:22</p> <p>8 on your opinions and conclusions, if you can parse 14:05:25</p> <p>9 it out? 14:05:28</p> <p>10 MR. COLLINS: And the question is that 14:05:29</p> <p>11 one sentence? 14:05:31</p> <p>12 MR. BESSETTE: Yes. 14:05:32</p> <p>13 BY THE WITNESS: 14:05:33</p> <p>14 A. Are you asking me to take it out of 14:05:39</p> <p>15 context? Because obviously I am seeing the words 14:05:41</p> <p>16 that are surrounding it, both above and below, and 14:05:44</p> <p>17 have opinions about the context in which it 14:05:47</p> <p>18 occurred. And this one sentence seems really in and 14:05:51</p> <p>19 of itself not particularly interesting or useful. 14:05:54</p> <p>20 BY MR. BESSETTE: 14:05:57</p> <p>21 Q. Okay. Well, let's just leave it 14:05:57</p> <p>22 there. 14:05:59</p> <p>23 You can turn to paragraph 17 of 14:05:59</p> <p>24 your initial report and 33 of your rebuttal for 14:06:33</p>	<p>1 of retailers in Canada was really being effected by 14:07:52</p> <p>2 gray marketing? 14:07:57</p> <p>3 A. It might suggest that. 14:07:58</p> <p>4 Q. Well, let me ask you this: Do you 14:07:59</p> <p>5 know what it suggests? 14:08:03</p> <p>6 MR. COLLINS: Calls for speculation. 14:08:03</p> <p>7 Go ahead. 14:08:03</p> <p>8 BY THE WITNESS: 14:08:06</p> <p>9 A. It suggests that anywhere from -- 14:08:06</p> <p>10 well, this alone, divorced from all other 14:08:11</p> <p>11 documentation, suggests that there may have been two 14:08:15</p> <p>12 groups, those affected and those not affected. 14:08:20</p> <p>13 BY MR. BESSETTE: 14:08:24</p> <p>14 Q. Did you consider that in all your work 14:08:24</p> <p>15 in this case? 14:08:26</p> <p>16 A. Yes. 14:08:26</p> <p>17 Q. Do you know how large the subset of 14:08:27</p> <p>18 retailers affected in Canada -- affected by gray 14:08:39</p> <p>19 marketing and the subset not, do you know how large 14:08:43</p> <p>20 each is or was in 1998? 14:08:47</p> <p>21 A. No. 14:08:48</p> <p>22 Q. So no sense whether the subset 14:08:49</p> <p>23 affected by gray marketing was larger or smaller 14:08:53</p> <p>24 than the subset not affected? 14:08:57</p>

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<p>1 A. It would be speculative to answer that 14:08:59  2 question. 14:09:02  3 Q. Did you read the deposition of Darl 14:09:02  4 Hatfield, the former CFO? 14:09:17  5 A. I don't remember. If I did, it was 14:09:19  6 probably touching on parts of it and not focusing on 14:09:21  7 all of it. 14:09:26  8 Q. Okay. Did you read the part where he 14:09:27  9 stated that he didn't think gray market sales had 14:09:30  10 any financial impact at all on Adams Golf? 14:09:34  11 A. I don't recall. 14:09:38  12 Q. Let me give you the -- hand you -- 14:09:38  13 well, I'm sorry. Let's mark this. 14:10:04  14 (Exhibit No. 307 was 14:10:13  15 marked for 14:10:13  16 identification.) 14:10:14  17 BY MR. BESSETTE: 14:10:14  18 Q. Okay. Professor, you have now been 14:10:14  19 handed a document marked Exhibit 307 by the court 14:10:17  20 reporter. I think it is the Eagle study that you 14:10:20  21 cite in your report at Paragraph 21B, I think also 14:10:23  22 Paragraph 7 of your rebuttal. 14:10:34  23 MR. COLLINS: For the record, it is 14:10:36  24 OCH 71 through 88. 14:10:38</p>	<p>1 for an increasing foreign market share." 14:12:28  2 A. Yes. 14:12:28  3 Q. Okay. What is the cite cited for that 14:12:29  4 statement, by the way? 14:12:38  5 A. It says Mitchell, 1998. 14:12:38  6 Q. Are you familiar with that article? 14:12:40  7 A. I don't believe I looked it up, no. 14:12:41  8 Q. This Eagle article, too, by the way, 14:12:43  9 is published what, some five years after Adam's IPO? 14:12:46  10 A. Yes. 2003 I believe. 14:12:49  11 Q. I believe, yeah. 14:12:50  12 We have touched on this before, 14:13:00  13 but at Paragraph 19 of your initial report, and I 14:13:01  14 will just read it, you can look if you need to. You 14:13:05  15 say, "In the long-term, the gray market is known to 14:13:07  16 be potentially detrimental to consumers and 14:13:10  17 trademark holders alike." Doesn't the Eagle article 14:13:15  18 at page 1335 state that "Protecting parallel 14:13:19  19 importers is perceived as acting in the interest of 14:13:25  20 consumers"? 14:13:30  21 A. What it does for consumers is 14:13:30  22 different from what it does to a company. 14:13:34  23 Q. My question was, doesn't that article 14:13:36  24 state that? 14:13:40</p>
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<p>1 BY THE WITNESS: 14:10:38  2 A. What paragraph of the rebuttal, I am 14:10:45  3 sorry? 14:10:45  4 BY MR. BESSETTE: 14:10:45  5 Q. Now, on Paragraph 7 -- 14:10:52  6 A. Of the rebuttal, right? 14:10:54  7 Q. Uh-huh. Yes, ma'am. 14:10:57  8 Although the part -- it might be 14:10:57  9 your initial report. Let me just look. Yeah, it's 14:11:29  10 actually -- the quote is in Paragraph 21B of your 14:11:29  11 initial report. He is saying, "In a recent study of 14:11:32  12 the effects of gray marketing on brand image, each 14:11:43  13 of 15 brand owners believe that parallel import 14:11:46  14 activity of their products into discount retail 14:11:49  15 stores was negatively impacting or had the potential 14:11:52  16 to impact on their brands perceptions." And I think 14:11:59  17 you cite the Eagle report on page 1342? 14:11:59  18 A. Correct. 14:12:05  19 Q. Okay. If you turn to page 1335 of 14:12:05  20 that article, and it's obviously going to be one of 14:12:09  21 the underlined lines, because I've underlined that, 14:12:09  22 but I don't remember which one. I believe the 14:12:19  23 article cites a source stating that parallel export 14:12:20  24 channels may assist in penetrating foreign markets 14:12:20</p>	<p>1 MR. COLLINS: Document speaks for 14:13:40  2 itself. 14:13:42  3 BY THE WITNESS: 14:13:42  4 A. It says that it can be -- hang on. 14:13:42  5 What it says is that protecting parallel importers 14:13:50  6 is perceived as providing a check on the near 14:13:53  7 monopoly held by many manufacturers and as acting in 14:13:53  8 the interest of consumers. 14:14:05  9 BY MR. BESSETTE: 14:14:05  10 Q. Okay. And at page 1339, doesn't Eagle 14:14:06  11 state that there is little research of an empirical 14:14:09  12 nature concerning parallel importing or its effect, 14:14:13  13 positive or negative, on brand equity and values? 14:14:17  14 MR. COLLINS: Speaks for itself. 14:14:20  15 Go ahead. 14:14:22  16 BY THE WITNESS: 14:14:22  17 A. It does say that that was the reason for 14:14:22  18 this study. 14:14:24  19 BY MR. BESSETTE: 14:14:25  20 Q. And there is a marked steer toward 14:14:26  21 conjecture and opinion rather than providing 14:14:26  22 objective, quantitative analysis of the impacts of 14:14:26  23 the practice on brands, markets and individual 14:14:32  24 market segments? 14:14:34</p>

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<p>1 MR. COLLINS: Same objection. 14:14:35</p> <p>2 BY THE WITNESS: 14:14:37</p> <p>3 A. It does say that, that was the gap she 14:14:38</p> <p>4 was aiming to fill. 14:14:40</p> <p>5 BY MR. BESSETTE: 14:14:44</p> <p>6 Q. And didn't Eagle tell the reader in 14:14:44</p> <p>7 the study that parallel importing activities 14:14:44</p> <p>8 explored only in the consumer goods sector of the 14:14:44</p> <p>9 New Zealand economy? 14:14:49</p> <p>10 MR. COLLINS: Speaks for itself. 14:14:49</p> <p>11 Where are you referring to, please? For the record, 14:14:51</p> <p>12 it's OCH 78. 14:14:51</p> <p>13 BY THE WITNESS: 14:14:51</p> <p>14 A. Yes. She is informing the reader of 14:14:57</p> <p>15 the place in which she did her study. 14:14:59</p> <p>16 BY MR. BESSETTE: 14:15:01</p> <p>17 Q. How similar is New Zealand's gray 14:15:01</p> <p>18 market economy to Canada's, if you know? 14:15:06</p> <p>19 A. I don't know. 14:15:08</p> <p>20 Q. Do you know whether any of the 14:15:08</p> <p>21 interviewees of that study sell golf clubs? 14:15:10</p> <p>22 A. I don't know. 14:15:14</p> <p>23 Q. 28 C 2 of your report. I think you 14:15:14</p> <p>24 quote -- 14:15:38</p>	<p>1 MR. BESSETTE: Okay. 14:16:30</p> <p>2 BY THE WITNESS: 14:16:30</p> <p>3 A. I would just like to read it, just for 14:16:31</p> <p>4 a second. 14:16:32</p> <p>5 BY MR. BESSETTE: 14:16:32</p> <p>6 Q. Uh-huh. 14:16:32</p> <p>7 A. Yes. That is the next phrase found in 14:17:04</p> <p>8 the Eagle article. 14:17:06</p> <p>9 Q. Wasn't Adam's growth strategy 14:17:08</p> <p>10 including -- include the developing of new 14:17:12</p> <p>11 technology in product design? 14:17:14</p> <p>12 A. Yes, but I don't know how fast. 14:17:16</p> <p>13 Q. Did Adam's Tight Lies club win an 14:17:18</p> <p>14 award for technical reasons in 1998? 14:17:23</p> <p>15 A. I don't know. 14:17:26</p> <p>16 Q. You can turn, Professor, to your 14:17:27</p> <p>17 initial report at 28 C 2. I guess, actually, right 14:17:56</p> <p>18 probably where you are. 14:18:04</p> <p>19 MR. COLLINS: Page 19? 14:18:04</p> <p>20 BY THE WITNESS: 14:18:04</p> <p>21 A. Yes, that's where I am. 14:18:06</p> <p>22 BY MR. BESSETTE: 14:18:08</p> <p>23 Q. Let me hand you what has been marked 14:18:14</p> <p>24 previously as Exhibit 80, which you reference in 14:18:17</p>
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<p>1 A. Hang on a second.</p> <p>2 Q. Sure.</p> <p>3 A. That's page 19, right?</p> <p>4 Q. Yes. Uh-huh.</p> <p>5 A. Okay.</p> <p>6 Q. You cite where Eagle writes that many 14:15:49</p> <p>7 trademark holders have noted substantial losses in 14:15:55</p> <p>8 sales, and you say up to 30 percent as the direct 14:15:58</p> <p>9 result of parallel import activity. 14:16:01</p> <p>10 A. I don't say up to 30 percent. That's 14:16:04</p> <p>11 part of the quote. 14:16:06</p> <p>12 Q. Right. Doesn't the very next sentence 14:16:08</p> <p>13 state that others generally where there was a high 14:16:10</p> <p>14 element of rapidly changing technology or fashion 14:16:10</p> <p>15 reported minimal impact? 14:16:16</p> <p>16 MR. COLLINS: Just so we have a clear 14:16:16</p> <p>17 record here, what page of Eagle are you referring to 14:16:19</p> <p>18 now? 14:16:23</p> <p>19 BY MR. BESSETTE: 14:16:23</p> <p>20 Q. It's 1342 that was cited in your 14:16:24</p> <p>21 report. 14:16:27</p> <p>22 MR. COLLINS: That's fine. I just 14:16:27</p> <p>23 want the record to be clear as to what you are 14:16:28</p> <p>24 reading. 14:16:30</p>	<p>1 Paragraph 28 C 2 of your expert report, Exhibit 303. 14:18:21</p> <p>2 Now, Paragraph 2 of your report 14:18:37</p> <p>3 you say, "In addition, the sales in Costco stores 14:18:39</p> <p>4 had the effect of diminishing the prestige and 14:18:42</p> <p>5 desirability of its clubs among high end consumers, 14:18:47</p> <p>6 thus reducing sales though," I think you mean 14:18:47</p> <p>7 through. 14:18:47</p> <p>8 A. It should have been through. 14:18:47</p> <p>9 Q. Okay. "The high end retailers. On 14:18:55</p> <p>10 October 8, 1998, Barney Adams recognized this 14:18:57</p> <p>11 problem when he estimated that the gray market had a 14:19:01</p> <p>12 negative sales effect in Q4 of 20 to 25 percent 14:19:05</p> <p>13 based on a market survey (customers who refused to 14:19:05</p> <p>14 buy)." 14:19:05</p> <p>15 Now, to be clear Mr. Adams isn't 14:19:12</p> <p>16 estimating that gray market had a negative sales 14:19:17</p> <p>17 effect in Q4 in October, is he? 14:19:23</p> <p>18 MR. COLLINS: The document speaks for 14:19:27</p> <p>19 itself. 14:19:28</p> <p>20 BY MR. BESSETTE: 14:19:29</p> <p>21 Q. Now, what is your understanding of 14:19:30</p> <p>22 what he is doing? 14:19:31</p> <p>23 MR. COLLINS: Calls for speculation. 14:19:32</p> <p>24</p>

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<p>1 BY THE WITNESS: 14:19:33</p> <p>2 A. Yeah. My understanding of what he is 14:19:34</p> <p>3 doing is talking about the impacts of gray marketing 14:19:35</p> <p>4 on the company. 14:19:38</p> <p>5 BY MR. BESSETTE: 14:19:39</p> <p>6 Q. Well, in terms of his -- well, what is 14:19:40</p> <p>7 the import of this document, in your opinion? 14:19:47</p> <p>8 MR. COLLINS: Exhibit 80. Go ahead. 14:19:52</p> <p>9 BY MR. BESSETTE: 14:19:56</p> <p>10 Q. What relevance does it have to you? 14:19:57</p> <p>11 A. It has -- the relevance that it has -- 14:19:59</p> <p>12 actually let me just take a couple of seconds to 14:20:01</p> <p>13 re-read this document. I have read it before, but I 14:20:06</p> <p>14 will read it again. 14:20:09</p> <p>15 Q. Sure. 14:20:09</p> <p>16 A. It presents -- the gray market problem 14:20:50</p> <p>17 is it was manifesting itself at Adams. 14:20:51</p> <p>18 Q. I'm sorry? 14:20:58</p> <p>19 A. The document I believe was written by 14:20:58</p> <p>20 Barney Adams to summarize the effects of -- sorry. 14:21:02</p> <p>21 To summarize the gray market problem as it was 14:21:06</p> <p>22 manifesting itself at Adams. 14:21:10</p> <p>23 Q. That's your understanding of what this 14:21:12</p> <p>24 document is? 14:21:14</p>	<p>1 actually difficult to understand. 14:21:53</p> <p>2 BY MR. BESSETTE: 14:21:55</p> <p>3 Q. Why? 14:21:55</p> <p>4 A. I didn't think it was clear. 14:21:56</p> <p>5 Q. What was not clear? 14:21:57</p> <p>6 A. I didn't think his testimony was 14:21:59</p> <p>7 particularly clear. 14:22:02</p> <p>8 Q. What was ambiguous then? 14:22:02</p> <p>9 A. I thought it was not clear exactly how 14:22:03</p> <p>10 it was that he was -- I didn't think that his 14:22:06</p> <p>11 description of his intention in writing this memo 14:22:08</p> <p>12 was particularly clear. 14:22:12</p> <p>13 Q. In what respects? What did you not 14:22:13</p> <p>14 understand, I guess? 14:22:18</p> <p>15 A. Yeah. And now I am trying to 14:22:19</p> <p>16 remember, obviously. He restated his intention a 14:22:20</p> <p>17 number of times. And in those restatements, in my 14:22:28</p> <p>18 recollection of those restatements, sort of changed 14:22:31</p> <p>19 his presentation slightly. And as a result, I 14:22:34</p> <p>20 wasn't really entirely clear what it was he was 14:22:38</p> <p>21 trying to convey during his testimony. 14:22:41</p> <p>22 Q. When you read his testimony, did you 14:22:49</p> <p>23 understand that the 20 to 25 percent negative sales 14:22:52</p> <p>24 effect that he was estimating was from causes other 14:22:55</p>
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<p>1 A. Yes. 14:21:14</p> <p>2 Q. Where did you get that understanding? 14:21:16</p> <p>3 A. From reading it. 14:21:17</p> <p>4 Q. Your understanding that you just 14:21:18</p> <p>5 testified to you pull out of this document? 14:21:21</p> <p>6 MR. COLLINS: You just asked that 14:21:23</p> <p>7 question. She just answered it. 14:21:26</p> <p>8 MR. BESSETTE: Just verifying, 14:21:28</p> <p>9 Counsel. 14:21:28</p> <p>10 BY THE WITNESS: 14:21:28</p> <p>11 A. Yes. 14:21:28</p> <p>12 BY MR. BESSETTE: 14:21:28</p> <p>13 Q. Did you read Mr. Adams' testimony 14:21:31</p> <p>14 about this document? 14:21:33</p> <p>15 A. I did. 14:21:33</p> <p>16 Q. You understand that Mr. Adams 14:21:35</p> <p>17 testified under oath that the 20 to 25 percent 14:21:37</p> <p>18 estimated negative sales effect for Q4 was not 14:21:40</p> <p>19 solely the result or Costco? 14:21:44</p> <p>20 MR. COLLINS: The transcript speaks 14:21:47</p> <p>21 for itself. 14:21:50</p> <p>22 Answer. 14:21:51</p> <p>23 BY THE WITNESS: 14:21:51</p> <p>24 A. I found that part of the transcript 14:21:52</p>	<p>1 than or in addition to gray marketing? 14:23:00</p> <p>2 A. No. 14:23:03</p> <p>3 Q. You didn't understand that? 14:23:03</p> <p>4 MR. COLLINS: Asked and answered. 14:23:06</p> <p>5 BY THE WITNESS: 14:23:07</p> <p>6 A. No. 14:23:08</p> <p>7 BY MR. BESSETTE: 14:23:08</p> <p>8 Q. How much weight did you give to 14:23:28</p> <p>9 Mr. Adams's assessment of the situation as reflected 14:23:31</p> <p>10 in Exhibit 80? 14:23:34</p> <p>11 MR. COLLINS: I'm sorry, could you 14:23:46</p> <p>12 repeat that? I just missed a word. 14:23:46</p> <p>13 MR. BESSETTE: That's fine. 14:23:46</p> <p>14 (Record read.) 14:23:46</p> <p>15 MR. COLLINS: By assessment, you mean 14:23:47</p> <p>16 deposition -- assessment in the deposition? 14:23:49</p> <p>17 MR. BESSETTE: No. 14:23:50</p> <p>18 BY MR. BESSETTE: 14:23:50</p> <p>19 Q. How much weight did you give -- in 14:23:51</p> <p>20 coming to your opinions and conclusions, did you 14:23:52</p> <p>21 give to Mr. Adams' assessment of the situation as 14:23:54</p> <p>22 reflected in Exhibit 80? 14:23:58</p> <p>23 A. It was just one piece of the evidence 14:23:59</p> <p>24 that I reviewed. 14:24:02</p>

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<p>1 Q. Did you find his statements reflected 14:24:03  2 in Exhibit 80 credible? 14:24:05  3 A. Yes. 14:24:07  4 Q. How about the last paragraph, wherein 14:24:07  5 Mr. Adams says, "Except for a lesser amount in the 14:24:17  6 pipeline, we will have this under control by Q1 14:24:22  7 '99." Did you find that credible? 14:24:29  8 A. I thought it was plausible. 14:24:29  9 Q. You have no reason to believe that he 14:24:31  10 didn't believe that when he wrote that? 14:24:33  11 A. No. 14:24:36  12 Q. Paragraph 31 of your initial report 14:24:36  13 and 25 of your rebuttal. 14:25:03  14 A. Okay. 14:25:25  15 Q. Let me show you what has been marked 14:25:26  16 as Exhibit 56. I believe that's the October 13, 14:27:02  17 1998 memo that you cite in Paragraph 25 of your 14:27:06  18 rebuttal and 31 of your initial report. 14:27:10  19 A. Okay. 14:27:10  20 Q. In your report you cite that Barney 14:27:22  21 Adams stated that Costco sales had a greater impact 14:27:25  22 on Adams -- was going to have a greater impact on 14:27:30  23 Adams Q4 '98 than competition, because I think he 14:27:34  24 says to a lesser degree competition, correct? 14:27:39</p>	<p>1 Q. Mr. Adams also stated that Costco 14:28:21  2 sales at the time of the IPO were no worse than they 14:28:21  3 were in October. I believe in the paragraphs I 14:28:24  4 mentioned in these reports, you conclude from this 14:28:25  5 that gray market was a bigger problem in competition 14:28:28  6 at the time of the IPO. Do I have that right? 14:28:32  7 A. Yes. 14:28:34  8 Q. And for you to make that conclusion, 14:28:35  9 does that not assume that competition was at the 14:28:38  10 same level during both periods, that is, at the time 14:28:42  11 of the IPO and Q4? 14:28:45  12 A. It doesn't really make a particular 14:28:48  13 quantitative assumption about competition. It only 14:28:53  14 makes a relative assumption about competition 14:28:57  15 relative to gray market sales. 14:29:00  16 Q. Okay. Same thing then. Relative to 14:29:00  17 gray market sales competition was at the same level, 14:29:03  18 that's a natural implication from your conclusion. 14:29:05  19 Do I understand that right? 14:29:09  20 MR. COLLINS: Vague and ambiguous. 14:29:11  21 BY THE WITNESS: 14:29:13  22 A. Yeah. My problem is simply that my 14:29:13  23 statement speaks about the time of the document, 14:29:14  24 that gray market sales were a greater problem than 14:29:16</p>
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<p>1 A. Right. 14:27:41  2 Q. Mr. Adams also stated that Costco 14:27:42  3 sales at the time of the IPO were no worse than they 14:27:45  4 were in October. And I believe you conclude from 14:27:48  5 this that gray market was a bigger problem in 14:27:50  6 competition at the time of the IPO. Do I have that 14:27:54  7 right? 14:27:57  8 MR. COLLINS: Vague and ambiguous. 14:27:57  9 You just kind of clumped it all up for an unclear 14:27:59  10 record. I can tell you why or -- 14:28:04  11 MR. BESSETTE: I don't believe it is 14:28:04  12 unclear. 14:28:05  13 MR. COLLINS: Not a problem. Vague 14:28:06  14 and ambiguous. 14:28:07  15 If you feel you can, answer the 14:28:09  16 question. 14:28:11  17 BY THE WITNESS: 14:28:11  18 A. If you could restate it, that would be 14:28:11  19 great. 14:28:13  20 BY MR. BESSETTE: 14:28:13  21 Q. Okay. You cite Mr. Adams stated that 14:28:13  22 Costco sales would have a greater impact in Q4 than 14:28:18  23 competition. 14:28:21  24 A. Uh-huh. 14:28:21</p>	<p>1 competition as of the time that Barney Adams wrote 14:29:21  2 the October 13th memo. It doesn't speak to that 14:29:25  3 issue prior to the IPO. 14:29:30  4 BY MR. BESSETTE: 14:29:31  5 Q. Let me ask you this: If competition 14:29:31  6 was fiercer at the time of the IPO than it was in 14:29:33  7 Q4, then couldn't gray market sales have been less 14:29:38  8 important than competition at the time of the IPO? 14:29:42  9 A. Not necessarily. 14:29:46  10 Q. I said couldn't they? 14:29:47  11 A. Plausibly, yes. 14:29:47  12 Q. Do you have any view as to whether it 14:29:50  13 was or was not? 14:29:53  14 A. Yes. 14:29:54  15 Q. What is your view and then what is it 14:29:54  16 based on? 14:29:58  17 A. Okay. I am going to take each of them 14:29:59  18 in turn. So competition, I believe at the time of 14:30:04  19 the IPO was something about which the company had a 14:30:06  20 good hold. They had good information about their 14:30:13  21 competitors, they knew who their competitors were, 14:30:17  22 they knew what the competitors' clubs were, and if 14:30:20  23 they were like many manufacturers in a competitive 14:30:24  24 industry, they had some information about what was 14:30:27</p>

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<p>1 likely to be coming down the pike from their 14:30:29</p> <p>2 competitors. 14:30:32</p> <p>3 That was not the case in respect 14:30:32</p> <p>4 to the gray market. So in respect to the gray 14:30:35</p> <p>5 market, the company was dealing with a new issue, it 14:30:35</p> <p>6 was an issue that was increasing in magnitude, 14:30:38</p> <p>7 increasing in importance, it was an issue that the 14:30:41</p> <p>8 company was trying to understand and trying to gain 14:30:43</p> <p>9 hold of. So given that, I think it was a 14:30:45</p> <p>10 different -- it was a different scenario. Gray 14:30:50</p> <p>11 marketing was simply different than competition was 14:30:55</p> <p>12 prior to the IPO. And gray marketing, prior to the 14:30:58</p> <p>13 IPO, was different than it was in October. 14:31:01</p> <p>14 Q. Was competition -- was the competition 14:31:16</p> <p>15 that faced Adams Golf greater at the time of the IPO 14:31:21</p> <p>16 than it was in Q4 1998? 14:31:25</p> <p>17 MR. COLLINS: Outside the scope. 14:31:28</p> <p>18 BY THE WITNESS: 14:31:29</p> <p>19 A. I don't know. 14:31:29</p> <p>20 BY MR. BESSETTE: 14:31:29</p> <p>21 Q. Okay. And relative to gray marketing, 14:31:33</p> <p>22 was competition greater at the time of the IPO than 14:31:35</p> <p>23 it was in Q4 1998? 14:31:44</p> <p>24 MR. COLLINS: Outside the scope, vague 14:31:47</p>	<p>1 it looks like demand dropped off sometime during the 14:32:38</p> <p>2 third and moving into the fourth quarter. 14:32:42</p> <p>3 Q. And do you know to what degree demand 14:32:44</p> <p>4 dropped off in that time frame? 14:32:50</p> <p>5 MR. COLLINS: Outside the scope. 14:32:52</p> <p>6 BY THE WITNESS: 14:32:52</p> <p>7 A. Not exactly, no. 14:32:54</p> <p>8 BY MR. BESSETTE: 14:32:55</p> <p>9 Q. And it is your view, Professor, that 14:32:55</p> <p>10 assuming demand did drop off in Q3 moving into Q4, 14:32:59</p> <p>11 as you said, what impact that would have to Adams 14:33:05</p> <p>12 Golf in relation with the impact gray marketing was 14:33:12</p> <p>13 having to Adams Golf? 14:33:16</p> <p>14 MR. COLLINS: Vague and ambiguous, 14:33:17</p> <p>15 outside the scope. 14:33:20</p> <p>16 BY MR. BESSETTE: 14:33:21</p> <p>17 Q. Do you understand the question? 14:33:21</p> <p>18 A. I think understand it. I will answer 14:33:23</p> <p>19 what I think -- I will answer what I think I 14:33:25</p> <p>20 understood the question to be. One of the 14:33:28</p> <p>21 statements in my report that you have cited to 14:33:29</p> <p>22 already is the one that occasionally that there are 14:33:31</p> <p>23 times in which the only, quote, cure for a gray 14:33:36</p> <p>24 market problem is a fall off in demand for the 14:33:40</p>
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<p>1 and ambiguous. 14:31:48</p> <p>2 BY THE WITNESS: 14:31:49</p> <p>3 A. Again, I don't know. 14:31:50</p> <p>4 BY MR. BESSETTE: 14:31:51</p> <p>5 Q. So as you sit here, you can't tell me 14:31:51</p> <p>6 whether in relation with gray marketing, whether 14:31:54</p> <p>7 competition was greater at the time of the IPO or in 14:31:58</p> <p>8 Q4 1998? 14:32:02</p> <p>9 MR. COLLINS: Same objections. Asked 14:32:04</p> <p>10 and answered. 14:32:06</p> <p>11 BY THE WITNESS: 14:32:06</p> <p>12 A. That is not what I was asked to 14:32:07</p> <p>13 analyze. It's not what I analyzed. 14:32:10</p> <p>14 BY MR. BESSETTE: 14:32:11</p> <p>15 Q. Okay. And how about demand, demand 14:32:11</p> <p>16 for the Tight Lies and demand for golf clubs 14:32:13</p> <p>17 generally. As you sit here, do you know whether 14:32:18</p> <p>18 demand for Adams Golf's Tight Lies was stronger at 14:32:20</p> <p>19 the time of the IPO or Q4 '98? 14:32:26</p> <p>20 A. From reading the documents that I read 14:32:28</p> <p>21 in connection with this litigation, I know the 14:32:31</p> <p>22 demand dropped off. 14:32:33</p> <p>23 Q. When did it drop off? 14:32:34</p> <p>24 A. Again, from reviewing the documents, 14:32:36</p>	<p>1 product itself. So there would be a relationship 14:33:44</p> <p>2 there. 14:33:46</p> <p>3 So, for example, if you have got 14:33:46</p> <p>4 declining demand, that may have an effect on the 14:33:47</p> <p>5 desirability or the attractiveness of the product to 14:33:52</p> <p>6 gray marketers. 14:34:00</p> <p>7 Q. Are you aware that Mr. Adams testified 14:34:02</p> <p>8 that the reason gray marketing had, in his view, for 14:34:13</p> <p>9 the first time anyway, a material effect on the 14:34:19</p> <p>10 company was in this October 1998 time frame 14:34:22</p> <p>11 principally because demand had dropped off so 14:34:27</p> <p>12 drastically? Do you remember reading that part of 14:34:32</p> <p>13 his deposition testimony? 14:34:34</p> <p>14 MR. COLLINS: Transcript speaks for 14:34:35</p> <p>15 itself. 14:34:37</p> <p>16 BY THE WITNESS: 14:34:37</p> <p>17 A. I do remember reading that part of his 14:34:38</p> <p>18 testimony, yes. 14:34:40</p> <p>19 BY MR. BESSETTE: 14:34:41</p> <p>20 Q. Okay. Does that sound credible to 14:34:41</p> <p>21 you? 14:34:43</p> <p>22 MR. COLLINS: Outside the scope. 14:34:43</p> <p>23 Go ahead. 14:34:44</p> <p>24</p>

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<p>1 BY THE WITNESS: 14:34:45</p> <p>2 A. Yeah. I mean, you are asking me to 14:34:45</p> <p>3 assess whether Barney Adams is credible, whether his 14:34:48</p> <p>4 testimony is credible and I can't do that. But it 14:34:53</p> <p>5 does make some degree of sense to me, that as demand 14:34:57</p> <p>6 for the product dropped and as sales of the product 14:35:00</p> <p>7 dropped, if you have got a gray market problem that 14:35:04</p> <p>8 is staying stable or even if it is decreasing 14:35:07</p> <p>9 slightly, the gray market problem could become 14:35:11</p> <p>10 greater relative to overall sales. 14:35:14</p> <p>11 BY MR. BESSETTE: 14:35:18</p> <p>12 Q. In performing any of your work in this 14:35:18</p> <p>13 case, have you made a determination that that is 14:35:26</p> <p>14 what happened in October or Q4 of 1998 at Adams 14:35:28</p> <p>15 Golf? 14:35:32</p> <p>16 MR. COLLINS: Outside the scope. 14:35:32</p> <p>17 BY THE WITNESS: 14:35:36</p> <p>18 A. That what what's happened? Sorry. 14:35:36</p> <p>19 BY MR. BESSETTE: 14:35:37</p> <p>20 Q. Just what you said, that gray 14:35:37</p> <p>21 marketing, whether it was constant or decreasing a 14:35:39</p> <p>22 little, was going to have a bigger effect at Adams 14:35:42</p> <p>23 Golf in that time frame, because the demand had 14:35:45</p> <p>24 dropped off. In any of your work, have you looked 14:35:46</p>	<p>1 profit margins built into its pricing policy? 14:46:13</p> <p>2 MR. COLLINS: Well, mischaracterizes. 14:46:17</p> <p>3 The document speaks for itself. 14:46:20</p> <p>4 MR. BESSETTE: I am reading the 14:46:23</p> <p>5 report. 14:46:25</p> <p>6 MR. COLLINS: It doesn't say</p> <p>7 emphasize. That's the problem.</p> <p>8 MR. BESSETTE: Sure it does.</p> <p>9 MR. COLLINS: But there is certainly a</p> <p>10 reference --</p> <p>11 MR. BESSETTE: Paragraph 11 of the 14:46:26</p> <p>12 rebuttal -- 14:46:26</p> <p>13 MR. COLLINS: -- to boasted retail 14:46:27</p> <p>14 margins of 31 percent, significantly higher than its 14:46:30</p> <p>15 competitors. 14:46:30</p> <p>16 MR. BESSETTE: First paragraph, the 14:46:31</p> <p>17 sentence before. 14:46:32</p> <p>18 THE WITNESS: The first line. 14:46:33</p> <p>19 MR. COLLINS: The company's road show 14:46:35</p> <p>20 presentation emphasized the high retailer profit 14:46:38</p> <p>21 margin built into the pricing policy. 14:46:42</p> <p>22 MR. BESSETTE: Good. Thank you. 14:46:42</p> <p>23 MR. COLLINS: My pleasure. 14:46:48</p> <p>24</p>
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<p>1 at that and made any conclusions or findings about 14:35:48</p> <p>2 that? 14:35:50</p> <p>3 MR. COLLINS: Outside the scope. 14:35:51</p> <p>4 BY THE WITNESS: 14:35:52</p> <p>5 A. Yeah. Again, simply because I haven't 14:35:53</p> <p>6 analyzed the company's sales protectory and I am not 14:35:54</p> <p>7 an expert in that particularly, I wouldn't be 14:35:59</p> <p>8 qualified to answer that question. 14:36:03</p> <p>9 BY MR. BESSETTE: 14:36:04</p> <p>10 Q. So I take it you didn't do that? 14:36:05</p> <p>11 A. I thought about it, but certainly not 14:36:07</p> <p>12 to any level that I am willing to testify to here. 14:36:10</p> <p>13 Q. And it is not part of your opinion one 14:36:13</p> <p>14 way or the other? 14:36:16</p> <p>15 A. I don't believe so. 14:36:17</p> <p>16 (Break taken.) 14:44:38</p> <p>17 BY MR. BESSETTE: 14:44:47</p> <p>18 Q. Let's see. Of your initial report 29 14:44:48</p> <p>19 and 29A and 11 of the rebuttal. You have 14:44:53</p> <p>20 Exhibit 167 in front of you. That's the road show 14:45:53</p> <p>21 presentation I showed you earlier? 14:45:58</p> <p>22 A. Yes. 14:45:59</p> <p>23 Q. And you say in Paragraph 11 of your 14:46:01</p> <p>24 rebuttal that Adams emphasized the high retailer 14:46:05</p>	<p>1 BY MR. BESSETTE: 14:46:48</p> <p>2 Q. So boasted retail margins of 31 14:46:48</p> <p>3 percent. Do you have the slide -- can you get 167? 14:46:58</p> <p>4 Let's turn to that slide, which you cite page 29. 14:46:58</p> <p>5 A. Okay. 14:47:10</p> <p>6 Q. Isn't that slide simply saying, 14:47:11</p> <p>7 Professor, that Adams offers higher retail margins 14:47:16</p> <p>8 for its fairway woods than its competitors? 14:47:21</p> <p>9 MR. COLLINS: Did you say offers? 14:47:27</p> <p>10 MR. BESSETTE: Uh-huh. 14:47:34</p> <p>11 BY THE WITNESS: 14:47:35</p> <p>12 A. Can you ask the question again? 14:47:36</p> <p>13 BY MR. BESSETTE: 14:47:38</p> <p>14 Q. Yeah. Isn't that slide simply saying 14:47:39</p> <p>15 that Adams offers higher retail margins for its 14:47:41</p> <p>16 fairway woods than its competitors? 14:47:46</p> <p>17 A. Well, it does a number of other things 14:47:48</p> <p>18 as well. But among the things it does, it states 14:47:49</p> <p>19 that it offers higher profit margins for its 14:47:52</p> <p>20 retailers than its competitors, yes. 14:47:55</p> <p>21 Q. Do you know what the average retailer 14:47:58</p> <p>22 margin across all different kinds of clubs was for 14:48:02</p> <p>23 Adams in each of its competitors? 14:48:06</p> <p>24 A. I don't. At least if it's -- let me 14:48:11</p>

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<p>1 sort of come back to the answer. If you are asking 14:48:17</p> <p>2 me if I know the average retail margin for the 14:48:20</p> <p>3 entire golf industry, no, I don't know that. 14:48:24</p> <p>4 Q. Now, you said earlier, you testified 14:48:27</p> <p>5 earlier today and I think it is in your report, that 14:48:33</p> <p>6 one of the unique things about Adams's business 14:48:35</p> <p>7 model that made it susceptible to gray marketers was 14:48:42</p> <p>8 this high retail margin. Do you remember that 14:48:49</p> <p>9 testimony? 14:48:51</p> <p>10 A. Yes. 14:48:51</p> <p>11 Q. And is it your view that the high 14:48:51</p> <p>12 retail margin as evidenced on that page of Exhibit 14:48:56</p> <p>13 167 is what motivated Costco to get Adams Golf's 14:48:59</p> <p>14 clubs and sell them in the gray market? 14:49:05</p> <p>15 A. There are a couple of things going on 14:49:09</p> <p>16 in that question. This is -- first of all, this is 14:49:09</p> <p>17 not the only document in which the company talks 14:49:10</p> <p>18 about its high retailer margins. This is just the 14:49:10</p> <p>19 only document in which it states exactly how high 14:49:14</p> <p>20 that margin was. 14:49:16</p> <p>21 And then to address the second 14:49:17</p> <p>22 part of your question, whether a high retailer 14:49:18</p> <p>23 margin is attractive to gray marketers, the answer 14:49:21</p> <p>24 is yes, but it was not the only business 14:49:26</p>	<p>1 store? 14:50:22</p> <p>2 MR. COLLINS: Calls for speculation. 14:50:22</p> <p>3 Go ahead. 14:50:22</p> <p>4 BY THE WITNESS: 14:50:23</p> <p>5 A. It is a separate -- that's a separate 14:50:23</p> <p>6 issue altogether. So you are asking whether Costco 14:50:25</p> <p>7 wanted the clubs because they offered a higher 14:50:29</p> <p>8 profit margin to the retailers, Costco was not -- 14:50:34</p> <p>9 didn't stand to gain any of that margin itself. So 14:50:38</p> <p>10 it doesn't care what does or doesn't happen to the 14:50:41</p> <p>11 authorized retailer. So that's the answer to that 14:50:45</p> <p>12 question. 14:50:49</p> <p>13 And then your second question, can 14:50:50</p> <p>14 you -- 14:50:50</p> <p>15 BY MR. BESSETTE: 14:50:51</p> <p>16 Q. Well, I guess I am trying to 14:50:51</p> <p>17 understand. You state in your report that a high 14:50:53</p> <p>18 retail margin, I guess in a general sense, attracts 14:50:56</p> <p>19 gray marketers. I am trying to bring it down to 14:51:00</p> <p>20 this case and we have got Costco. 14:51:02</p> <p>21 A. Sure. Sure. 14:51:05</p> <p>22 Q. Okay. Was the retail margin any 14:51:05</p> <p>23 reason why Costco wanted to acquire the clubs and 14:51:07</p> <p>24 sell them in their stores? 14:51:11</p>
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<p>1 characteristic of Adams that made it attractive to 14:49:28</p> <p>2 gray marketers. 14:49:32</p> <p>3 Q. But I am not talking about gray 14:49:33</p> <p>4 marketing generally, I am talking about Costco 14:49:36</p> <p>5 getting the Tight Lies. Okay? 14:49:37</p> <p>6 A. Yeah. 14:49:37</p> <p>7 Q. Is it your testimony that Costco 14:49:38</p> <p>8 wanted the Tight Lies because of the higher retail 14:49:41</p> <p>9 margin? 14:49:45</p> <p>10 A. That would not be the reason they 14:49:46</p> <p>11 would want the clubs. It would just create an 14:49:47</p> <p>12 opportunity for them to buy and sell the clubs. 14:49:51</p> <p>13 Q. In your opinion, Professor, if the 14:49:53</p> <p>14 margin was zero, the Tight Lies was as hot as it was 14:49:55</p> <p>15 in 1998, would Costco still want to get the club and 14:50:00</p> <p>16 sell it? 14:50:05</p> <p>17 MR. COLLINS: Okay. Go ahead. 14:50:06</p> <p>18 BY THE WITNESS: 14:50:08</p> <p>19 A. I don't think Costco cares how much 14:50:09</p> <p>20 the authorized retailers profit margin is. 14:50:13</p> <p>21 BY MR. BESSETTE: 14:50:16</p> <p>22 Q. Exactly. So because Tight Lies was a 14:50:16</p> <p>23 hot product, Costco wanted to sell it, if for no 14:50:22</p> <p>24 other reason than to have a loss leader in their 14:50:22</p>	<p>1 MR. COLLINS: Asked and answered, also 14:51:12</p> <p>2 outside the scope. Which I can explain to you, if 14:51:13</p> <p>3 that would be helpful, but otherwise, go ahead and 14:51:16</p> <p>4 answer. 14:51:19</p> <p>5 BY THE WITNESS: 14:51:19</p> <p>6 A. So just to explain to you how -- what 14:51:19</p> <p>7 role the higher profit margin plays. The higher 14:51:21</p> <p>8 profit margin doesn't make the clubs themselves 14:51:27</p> <p>9 particularly attractive to Costco, or didn't make 14:51:29</p> <p>10 the clubs themselves particularly attractive to 14:51:32</p> <p>11 Costco. There were other factors that made the 14:51:34</p> <p>12 clubs themselves particularly attractive, like the 14:51:37</p> <p>13 fact that they were a hot product. The pricing 14:51:38</p> <p>14 strategy, the high retailer margin, simply created 14:51:41</p> <p>15 an opportunity for arbitrage to occur, allowing 14:51:44</p> <p>16 Costco to take advantage of that high profit margin, 14:51:48</p> <p>17 allowing them to accumulate the clubs and sell them. 14:51:50</p> <p>18 Q. What arbitrage are you talking about? 14:51:53</p> <p>19 Who is arbitraging? 14:51:53</p> <p>20 MR. COLLINS: Asked and answered. 14:51:53</p> <p>21 BY THE WITNESS: 14:51:55</p> <p>22 A. Costco and whoever was selling to 14:51:55</p> <p>23 them. I can explain if you would like. 14:51:59</p> <p>24 14:51:59</p>

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<p>1 BY MR. BESSETTE: 14:52:09</p> <p>2 Q. Yeah, please. 14:52:09</p> <p>3 A. Okay. So if you have a high profit 14:52:10</p> <p>4 margin for the retailer, that allows the retailer to 14:52:14</p> <p>5 accumulate not just the clubs it intends to sell 14:52:18</p> <p>6 through its own outlet, but also it creates the 14:52:21</p> <p>7 opportunity for a retailer to purchase clubs that it 14:52:25</p> <p>8 knows it may not have the capacity to sell on to a 14:52:29</p> <p>9 particular individuals, but rather to buy so many 14:52:33</p> <p>10 clubs that they can, A, cover their entire 14:52:37</p> <p>11 individual consumer base, and also have a mass of 14:52:40</p> <p>12 clubs to sell to Costco at a lower profit perhaps, 14:52:44</p> <p>13 but still a relatively high profit. 14:52:49</p> <p>14 Q. Well, the degree of the profit margin, 14:52:54</p> <p>15 how does that have any impact in that scenario? I 14:52:58</p> <p>16 mean, if a retailer is going to have a profit margin 14:53:01</p> <p>17 whether it sells it to its own user base or to 14:53:05</p> <p>18 Costco, what does it matter? 14:53:11</p> <p>19 A. Ask the question again, I'm sorry. 14:53:27</p> <p>20 MR. BESSETTE: Can you repeat it, 14:53:27</p> <p>21 please? 14:53:27</p> <p>22 (Record read.) 14:53:27</p> <p>23 BY THE WITNESS: 14:53:27</p> <p>24 A. The retailer simply wants to have a 14:53:27</p>	<p>1 MR. COLLINS: Calls for speculation, 14:54:40</p> <p>2 outside the scope. 14:54:40</p> <p>3 You may answer. 14:54:40</p> <p>4 BY THE WITNESS: 14:54:40</p> <p>5 A. I don't know about TaylorMade in 14:54:42</p> <p>6 particular and the gray market problems that 14:54:44</p> <p>7 TaylorMade was or was not experiencing at the time 14:54:47</p> <p>8 of the IPO or prior to it or even after it. And 14:54:49</p> <p>9 frankly, the only relevance that TaylorMade has in 14:54:51</p> <p>10 relation to Adams' retailer margins is that it was 14:54:57</p> <p>11 -- that there was a significant gap between Adams 14:55:02</p> <p>12 and its competitors in terms of the retail margin 14:55:05</p> <p>13 that it was offering, in this sense. 14:55:10</p> <p>14 TaylorMade's profit margins also 14:55:12</p> <p>15 seems pretty high to me. It's very possible that 14:55:15</p> <p>16 that also created enough space for arbitrage to 14:55:19</p> <p>17 occur, so there was enough space for the gray 14:55:20</p> <p>18 marketers to cover the additional costs involved 14:55:21</p> <p>19 with the channeling through unauthorized 14:55:24</p> <p>20 distribution channels of the product. But with a 14:55:29</p> <p>21 5 percent greater retailer margin, there was simply 14:55:31</p> <p>22 more space for that to occur. 14:55:35</p> <p>23 BY MR. BESSETTE: 14:55:38</p> <p>24 Q. You are just speculating, are you not, 14:55:38</p>
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<p>1 profit margin. So if it can have a very high, a 14:53:30</p> <p>2 31 percent profit margin from a sale to an 14:53:34</p> <p>3 individual, that's wonderful for the retailer. But 14:53:37</p> <p>4 if it has to take say, and here I am speculating, 14:53:40</p> <p>5 but say a 12 percent profit margin, as long as it 14:53:44</p> <p>6 can cover its cost and still make a profit, the 14:53:47</p> <p>7 authorized retailer probably doesn't care whether he 14:53:50</p> <p>8 is getting that profit from individuals, with the 14:53:54</p> <p>9 exception of the fact that he gets a higher profit 14:53:57</p> <p>10 margin from selling to individuals, or whether he 14:53:59</p> <p>11 gets it from Costco, as long as he is still getting 14:54:04</p> <p>12 a profit margin when he sells to Costco. 14:54:04</p> <p>13 BY MR. BESSETTE: 14:54:06</p> <p>14 Q. The difference between, who is it 14:54:06</p> <p>15 TaylorMade the profit margin for Adams Golf, was it 14:54:08</p> <p>16 TaylorMade 31 or 26, is that significant in your 14:54:13</p> <p>17 mind creating arbitrage opportunities? Did it 14:54:16</p> <p>18 create arbitrage opportunities in this case?? 14:54:21</p> <p>19 MR. COLLINS: Could you say it again? 14:54:25</p> <p>20 BY MR. BESSETTE: 14:54:26</p> <p>21 Q. Did the difference between Adams 14:54:27</p> <p>22 Golf's profit margin and TaylorMade's profit margin 14:54:30</p> <p>23 create arbitrage opportunities that resulted in gray 14:54:34</p> <p>24 market sales in this case, do you know? 14:54:38</p>	<p>1 that the retail profit margin that was available 14:55:42</p> <p>2 from the Tight Lies had anything to do with the 14:55:45</p> <p>3 sales being diverted by authorized retailers to 14:55:48</p> <p>4 Costco and then clubs being sold in Costco? 14:55:54</p> <p>5 A. No, I am not speculating about that. 14:55:54</p> <p>6 Q. Do you have proof? 14:55:57</p> <p>7 A. Yes. 14:55:59</p> <p>8 Q. What is the proof? 14:55:59</p> <p>9 A. I am not remembering the exhibit at 14:56:01</p> <p>10 the moment, but there was an exhibit, an internal 14:56:02</p> <p>11 memo in which the company devised a pricing policy 14:56:03</p> <p>12 for Canada -- in which the company devised a pricing 14:56:13</p> <p>13 policy for Canada, which was going to decrease 14:56:14</p> <p>14 profit margins and was to remain in place until -- I 14:56:15</p> <p>15 think it said something like until the prices are no 14:56:20</p> <p>16 longer attractive to gray marketers, or something 14:56:21</p> <p>17 like that. 14:56:26</p> <p>18 Q. Right. That's in front of you. 14:56:27</p> <p>19 That's the pricing policy we talked about to deal 14:56:30</p> <p>20 with the problem. My question to you was, do you 14:56:32</p> <p>21 have proof that the retail margin that you talked 14:56:36</p> <p>22 about which made the company, in your words, so 14:56:39</p> <p>23 unique that it would be attractive to gray marketers 14:56:42</p> <p>24 actually caused any of the sales that came from 14:56:42</p>

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<p>1 Costco? 14:56:47</p> <p>2 A. Yes. And again, I will point to that 14:56:47</p> <p>3 same memo, which I don't think I've seen yet today. 14:56:50</p> <p>4 And this is how. The company was in a very good 14:56:53</p> <p>5 position to assess the causes of its own gray market 14:56:58</p> <p>6 problem once it started to occur. And when it tried 14:57:02</p> <p>7 to do that, one of the first places that it looked 14:57:04</p> <p>8 was its pricing policy. I believe the company's own 14:57:07</p> <p>9 assessment of what was causing its own gray market 14:57:10</p> <p>10 problem speaks for itself. 14:57:13</p> <p>11 Q. So, okay. And in that document, did 14:57:16</p> <p>12 the company indicate just what you have said, that 14:57:17</p> <p>13 it looked at the cause and it was trying to deal 14:57:21</p> <p>14 with the cause of gray marketing and one of the 14:57:24</p> <p>15 causes was its retail pricing? 14:57:27</p> <p>16 MR. COLLINS: Vague and ambiguous. 14:57:29</p> <p>17 BY MR. BESSETTE: 14:57:29</p> <p>18 Q. Is that your recollection? 14:57:29</p> <p>19 MR. COLLINS: Vague and ambiguous, 14:57:31</p> <p>20 speaks for itself. 14:57:31</p> <p>21 Go ahead. 14:57:32</p> <p>22 BY THE WITNESS: 14:57:32</p> <p>23 A. My recollection of that document was 14:57:33</p> <p>24 not that it spoke about the causes. What it spoke 14:57:36</p>	<p>1 it thought it could at least alleviate the harm to 14:58:44</p> <p>2 its retailers? 14:58:48</p> <p>3 A. In fact, I think that's exactly what 14:58:48</p> <p>4 I'm trying to say. It is trying to fix the problem. 14:58:48</p> <p>5 The way you fix the problem is by spotting its 14:58:50</p> <p>6 causes and trying to alleviate the causes. And I 14:58:54</p> <p>7 think that's what the company was trying to do. 14:58:57</p> <p>8 Q. So you draw from that memo that one of 14:58:57</p> <p>9 the causes of the gray marketing was a high retail 14:59:00</p> <p>10 margin? 14:59:03</p> <p>11 A. Yes. 14:59:03</p> <p>12 Q. And is there -- 14:59:05</p> <p>13 MR. COLLINS: Excuse me. Are you 14:59:05</p> <p>14 finished? 14:59:05</p> <p>15 THE WITNESS: I didn't finish. 14:59:05</p> <p>16 BY THE WITNESS: 14:59:05</p> <p>17 A. From that memo, together with other 14:59:08</p> <p>18 documents. 14:59:10</p> <p>19 BY MR. BESSETTE: 14:59:10</p> <p>20 Q. Okay. What are the other documents? 14:59:11</p> <p>21 A. Okay. For example, if I had seen that 14:59:12</p> <p>22 memo and that was the company's strategy, and I knew 14:59:14</p> <p>23 the company had, just to give a hypothetical, a 14:59:17</p> <p>24 .05 percent retailer profit margin and it was 14:59:21</p>
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<p>1 about was the proactive steps the company was using 14:57:40</p> <p>2 in order to try to stem gray marketing in the 14:57:44</p> <p>3 future. One would assume or hope, at least, that 14:57:47</p> <p>4 Adams was putting its best foot forward in that 14:57:50</p> <p>5 respect, and in devising strategies to try to 14:57:55</p> <p>6 minimize gray marketing in the future, it was trying 14:58:01</p> <p>7 to get to the causes of its gray market activity. 14:58:01</p> <p>8 BY MR. BESSETTE: 14:58:04</p> <p>9 Q. But you are just assuming that, are 14:58:04</p> <p>10 you not? 14:58:06</p> <p>11 MR. COLLINS: Asked and answered. 14:58:07</p> <p>12 BY THE WITNESS: 14:58:08</p> <p>13 A. Again, like I said, I don't know the 14:58:08</p> <p>14 company's internal process, but I do assume that if 14:58:12</p> <p>15 the company is taking the time to devise a new 14:58:15</p> <p>16 pricing policy which is going to adversely effect 14:58:18</p> <p>17 the company as well, that it wouldn't do so -- it 14:58:22</p> <p>18 wouldn't do so without cause. So it would do so in 14:58:29</p> <p>19 honest and earnest attempts to actually be trying to 14:58:33</p> <p>20 stem its gray market problem, trying to get at a 14:58:36</p> <p>21 real cause of its gray market problem. 14:58:39</p> <p>22 BY MR. BESSETTE: 14:58:40</p> <p>23 Q. Wasn't it just as likely that it was 14:58:40</p> <p>24 just trying to fix the problem and that was one way 14:58:43</p>	<p>1 significantly lower than all of its competitors, 14:59:25</p> <p>2 then I would think it was an odd strategy. 14:59:28</p> <p>3 Q. Well, my question was, what other 14:59:30</p> <p>4 documents beside the pricing policy memo leads you 14:59:33</p> <p>5 to the conclusion that retail pricing and retail 14:59:36</p> <p>6 margin was a cause of gray marketing for Adams Golf? 14:59:41</p> <p>7 MR. COLLINS: Asked and answered. 14:59:45</p> <p>8 We've had a lot of answers along that line. 14:59:50</p> <p>9 Go ahead. 14:59:50</p> <p>10 MR. BESSETTE: I haven't heard any 14:59:50</p> <p>11 other documents. I apologize if you've said them. 14:59:50</p> <p>12 BY MR. BESSETTE: 14:59:50</p> <p>13 Q. Besides that memo, what other 14:59:51</p> <p>14 documents? 14:59:53</p> <p>15 A. What other documents do I believe -- I 14:59:53</p> <p>16 am sorry. 14:59:58</p> <p>17 Q. You said that that document, along 14:59:58</p> <p>18 with others, leads you to the conclusion that the 15:00:00</p> <p>19 retail margin caused the gray marketing in Adams 15:00:04</p> <p>20 Golf at least in part. What other documents? 15:00:09</p> <p>21 A. Okay, okay. So in addition to that 15:00:11</p> <p>22 document, there is the road trip document, which we 15:00:12</p> <p>23 were just talking about, which outlines very clearly 15:00:15</p> <p>24 Adams' high retail -- the retail profit margin that 15:00:17</p>

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<p>1 Adams presented to its retailers. And in addition, 15:00:21</p> <p>2 there is an awful lot in the academic literature as 15:00:25</p> <p>3 well about profit margins being an invitation to 15:00:25</p> <p>4 gray marketers. 15:00:32</p> <p>5 Q. Okay. I understand the academic 15:00:32</p> <p>6 literature. I see the chart and the road show 15:00:37</p> <p>7 documents showing the retail margin. And then you 15:00:38</p> <p>8 have got the document you are talking about where 15:00:39</p> <p>9 the company provided a new policy for Canada, for 15:00:41</p> <p>10 certain retailers in Canada that were effected where 15:00:46</p> <p>11 they got a credit, okay. 15:00:49</p> <p>12 Any other documents that you are 15:00:51</p> <p>13 referring to that, in your mind, lead to the 15:00:52</p> <p>14 conclusion that the pricing margin or the retail 15:00:55</p> <p>15 margin caused some of the gray marketing? 15:00:58</p> <p>16 A. At the moment, no. At the moment, I 15:01:01</p> <p>17 don't recall is what I meant to say. 15:01:09</p> <p>18 Q. I believe you said somewhere, probably 15:01:11</p> <p>19 in your rebuttal report, yeah, I think you said that 15:01:19</p> <p>20 that information about retail margins was omitted 15:01:24</p> <p>21 from the prospectus? 15:01:27</p> <p>22 A. Yes. 15:01:29</p> <p>23 Q. Is it your -- do you have any basis to 15:01:29</p> <p>24 conclude that it should have been in the prospectus? 15:01:33</p>	<p>1 to understand, and certainly very difficult to 15:02:56</p> <p>2 understand fully, especially if one is trying to see 15:03:00</p> <p>3 if there is any threats to that profit margin. 15:03:03</p> <p>4 Q. So you are saying besides saying that 15:03:06</p> <p>5 the company is going to try to maintain profit 15:03:09</p> <p>6 margins, but it very well may not, and there is a 15:03:11</p> <p>7 risk that those margins will decline, something more 15:03:15</p> <p>8 needed to be disclosed? 15:03:20</p> <p>9 A. Absolutely. 15:03:21</p> <p>10 Q. You are not saying based on some legal 15:03:23</p> <p>11 requirement or some knowledge you have with respect 15:03:25</p> <p>12 to SEC disclosure, right? This is based on your 15:03:27</p> <p>13 gray marketing expertise? 15:03:30</p> <p>14 A. Yes, yes. 15:03:32</p> <p>15 Q. Okay. 21D of your report. At the 15:03:32</p> <p>16 bottom of that page, you say, "The close correlation 15:04:28</p> <p>17 between increasing gray market sales and decreasing 15:04:34</p> <p>18 authorized sales, therefore, strongly suggests that 15:04:37</p> <p>19 the damage to Adams' name of the Tight Lies brand 15:04:40</p> <p>20 resulting from the gray market was great immediately 15:04:43</p> <p>21 after the company's IPO," or initial public 15:04:46</p> <p>22 offering. What do you mean in that sentence by 15:04:49</p> <p>23 correlation? 15:04:53</p> <p>24 A. Let me read the paragraph. 15:04:53</p>
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<p>1 A. Yes. 15:01:36</p> <p>2 Q. Really? What is your basis? 15:01:36</p> <p>3 A. I think in order to understand the 15:01:39</p> <p>4 risks that Adams was facing with respect to the gray 15:01:44</p> <p>5 market, there was a lot of missing information. 15:01:47</p> <p>6 There was the information about the gray market 15:01:50</p> <p>7 problem that was presenting itself at Adams, and 15:01:52</p> <p>8 there was also, although in the prospectus the 15:01:56</p> <p>9 company did state that it wanted to maintain -- I'm 15:01:59</p> <p>10 not actually sure if it said it wanted to maintain 15:02:03</p> <p>11 profit margins, or whether it said that it couldn't 15:02:03</p> <p>12 guarantee the profit margins would be maintained. 15:02:08</p> <p>13 But in order to understand that statement fully, one 15:02:10</p> <p>14 would have to know -- one would have to know of the 15:02:14</p> <p>15 potential threats to that profit margin that existed 15:02:18</p> <p>16 for the company at the time. 15:02:22</p> <p>17 Q. What is that based on, Professor? 15:02:24</p> <p>18 What is your conclusion that that information was 15:02:28</p> <p>19 required to be put in the prospectus? 15:02:32</p> <p>20 A. Again, absent any disclosure about the 15:02:37</p> <p>21 company's gray market problem. Information about -- 15:02:42</p> <p>22 the information that was contained in the prospectus 15:02:47</p> <p>23 about the company's profit margins or the retailer 15:02:50</p> <p>24 profit margins that it offered, were very difficult 15:02:53</p>	<p>1 There was a negative correlation. 15:05:52</p> <p>2 The sales were decreasing. Gray market sales were 15:05:54</p> <p>3 increasing. 15:05:58</p> <p>4 Q. So what do you mean by correlation? 15:05:58</p> <p>5 How do you use the word "correlation" in that 15:06:00</p> <p>6 sentence? 15:06:03</p> <p>7 A. There was a relationship between the 15:06:04</p> <p>8 two. 15:06:05</p> <p>9 Q. Do you understand the difference 15:06:05</p> <p>10 between a correlation and causation? 15:06:07</p> <p>11 A. Yes. 15:06:09</p> <p>12 Q. Can you explain that to me? 15:06:09</p> <p>13 A. Well, for those who use this language, 15:06:11</p> <p>14 it seems pretty -- so causation is -- there is you 15:06:16</p> <p>15 have got a factor occurring and it is the cause of 15:06:20</p> <p>16 another factor that is occurring. That is a causal 15:06:23</p> <p>17 relationship. A correlation is two things happening 15:06:28</p> <p>18 at the same time. 15:06:31</p> <p>19 Q. Okay. Because they are correlated, 15:06:32</p> <p>20 they could be unrelated. I mean, they are not 15:06:38</p> <p>21 causative? 15:06:41</p> <p>22 A. It's possible that they are unrelated. 15:06:42</p> <p>23 Q. All right. Could be causative, could 15:06:42</p> <p>24 not? 15:06:42</p>

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<p>1 A. Sorry. Let me rephrase that. 15:06:47</p> <p>2 MR. COLLINS: And before you do, I 15:06:47</p> <p>3 object to causation as outside the scope. 15:06:47</p> <p>4 Go ahead. 15:06:49</p> <p>5 BY THE WITNESS: 15:06:49</p> <p>6 A. Yeah. It is possible that they are -- 15:06:50</p> <p>7 it is possible that one is not the cause for the 15:06:53</p> <p>8 other. 15:06:55</p> <p>9 BY MR. BESSETTE: 15:06:56</p> <p>10 Q. Okay. And what is the basis for your 15:06:57</p> <p>11 assumption or observation, whichever it is, of 15:06:58</p> <p>12 decreasing authorized sales? 15:07:02</p> <p>13 A. The -- you said what is the basis for 15:07:07</p> <p>14 my assumption about decreasing authorized sales? 15:07:07</p> <p>15 Q. Yes. 15:07:17</p> <p>16 A. The company's sales figures, quarterly 15:07:18</p> <p>17 sales figures. 15:07:24</p> <p>18 Q. So which sales figures are you talking 15:07:25</p> <p>19 about, which quarters? 15:07:28</p> <p>20 A. The second, third and fourth. 15:07:29</p> <p>21 Q. So when were sales decreasing? 15:07:31</p> <p>22 A. Sales started to decrease in the third 15:07:35</p> <p>23 quarter and continued in the fourth. 15:07:38</p> <p>24 Q. So were there decreasing authorized 15:07:41</p>	<p>1 Let me strike my reference to an 15:09:04</p> <p>2 earlier document, but Paragraph 14 of your rebuttal, 15:09:06</p> <p>3 you say that a Web Street Golf report -- I think 15:09:13</p> <p>4 it's supposed to be Wall Street. Sorry. 15:09:24</p> <p>5 A. It is supposed to be Web Street. 15:09:24</p> <p>6 Q. Is it Web Street? Oh, it says Web 15:09:27</p> <p>7 Street. 15:09:27</p> <p>8 A. Yeah. 15:09:27</p> <p>9 Q. Is it different than the Wall Street 15:09:28</p> <p>10 one in the paragraph above? 15:09:30</p> <p>11 A. That should say Web Street. 15:09:31</p> <p>12 Q. Oh, oh. I see. All right. 15:09:34</p> <p>13 So the report dated March 22, 1999 15:09:34</p> <p>14 reports that Adams had adopted a new retail pricing 15:09:38</p> <p>15 structure in order to combat the gray market sale of 15:09:42</p> <p>16 its clubs. Do you know, as you sit here, know for a 15:09:47</p> <p>17 fact what factors influenced Adams Golf's decision 15:09:47</p> <p>18 to change its pricing policy at that time? 15:09:50</p> <p>19 A. I couldn't tell you that I know all of 15:09:50</p> <p>20 the factors with complete assurance. 15:09:57</p> <p>21 Q. Do you know any of them? 15:10:00</p> <p>22 A. Yes. 15:10:03</p> <p>23 Q. Which ones? 15:10:04</p> <p>24 A. The gray market. 15:10:05</p>
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<p>1 sales prior to the IPO? 15:07:43</p> <p>2 A. I don't believe so, no. It's hard to 15:07:45</p> <p>3 say actually, because the IPO happened in the middle 15:07:50</p> <p>4 of the third quarter -- or during the third quarter. 15:07:54</p> <p>5 So it is actually hard to really separate that out 15:07:56</p> <p>6 cleanly. 15:07:58</p> <p>7 Q. Well, then why don't we do it as of 15:07:58</p> <p>8 the end of June. Were there decreased authorized 15:08:00</p> <p>9 sales in Q2? 15:08:03</p> <p>10 MR. COLLINS: I think asked and 15:08:05</p> <p>11 answered, but go ahead. 15:08:07</p> <p>12 BY THE WITNESS: 15:08:08</p> <p>13 A. No. 15:08:08</p> <p>14 BY MR. BESSETTE: 15:08:10</p> <p>15 Q. Are you saying here, just to be clear, 15:08:19</p> <p>16 I guess that -- well, strike that. 15:08:21</p> <p>17 You are not saying in this 15:08:26</p> <p>18 paragraph, are you, Professor, that increasing gray 15:08:28</p> <p>19 market sales prior to the IPO was causing decreased 15:08:31</p> <p>20 authorized sales prior to or shortly after the IPO? 15:08:35</p> <p>21 A. No. I am not opining as to causation. 15:08:39</p> <p>22 Q. When we were talking about that 15:08:45</p> <p>23 pricing policy change, in fact, I -- well, strike 15:08:59</p> <p>24 that. 15:08:59</p>	<p>1 Q. And how do you know that? 15:10:09</p> <p>2 A. I know it from a couple of different 15:10:10</p> <p>3 sources. One would be the Web Street golfers 15:10:15</p> <p>4 report, which I cite, which I believe also contained 15:10:18</p> <p>5 pieces of interviews with Barney Adams. And then in 15:10:24</p> <p>6 addition, there was the pricing strategies the 15:10:29</p> <p>7 company was undertaking, the internal company 15:10:33</p> <p>8 documents in which the company talks about pricing 15:10:38</p> <p>9 strategies I believe also refer to the gray market. 15:10:41</p> <p>10 Q. Is it your testimony that Barney Adams 15:10:44</p> <p>11 testified that the new retail pricing structure had 15:10:47</p> <p>12 something to do with gray marketing? 15:10:51</p> <p>13 A. No. 15:10:53</p> <p>14 Q. Then I misunderstood. You mentioned 15:10:53</p> <p>15 Mr. Adams' testimony. What you did mean? 15:10:58</p> <p>16 A. I didn't. I said I believe that Web 15:11:00</p> <p>17 Street Golf report also included interviews with 15:11:04</p> <p>18 Barney Adams. 15:11:06</p> <p>19 Q. Okay. And what about those interviews 15:11:08</p> <p>20 support your conclusion that the pricing structure 15:11:10</p> <p>21 change had anything to do with gray market? 15:11:14</p> <p>22 A. The Web Street Golf report covered a 15:11:16</p> <p>23 number of issues. The pricing structure was one of 15:11:19</p> <p>24 them. And when the Web Street Golf report said that 15:11:22</p>

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<p>1 it adopted the retail pricing structure in order to 15:11:25</p> <p>2 combat the gray market. That was, in part, I 15:11:29</p> <p>3 believe as a result of the conversations the Web 15:11:34</p> <p>4 Street Golf report reporter had with Barney Adams. 15:11:38</p> <p>5 Q. Did they say that or are you just 15:11:40</p> <p>6 assuming that? 15:11:43</p> <p>7 MR. COLLINS: Speaks for itself. 15:11:44</p> <p>8 BY THE WITNESS: 15:11:45</p> <p>9 A. I am assuming that in the same way 15:11:45</p> <p>10 that a reader would assume. 15:11:48</p> <p>11 BY MR. BESSETTE: 15:11:50</p> <p>12 Q. So you assumed that, is that right? 15:11:50</p> <p>13 A. Yes. 15:11:52</p> <p>14 Q. Did Adams Golf, to your knowledge, 15:11:53</p> <p>15 take into consideration any decreased consumer 15:12:01</p> <p>16 demand or increased competitive pressures when it 15:12:06</p> <p>17 made the decision to have the new retail pricing 15:12:11</p> <p>18 structure? 15:12:14</p> <p>19 A. I don't know. 15:12:14</p> <p>20 Q. Did that factor into your opinions in 15:12:15</p> <p>21 any way? 15:12:18</p> <p>22 A. Because I don't know, then no. 15:12:18</p> <p>23 Q. Well, you say in that paragraph that 15:12:20</p> <p>24 this new pricing policy is illustrative of the 15:12:39</p>	<p>1 that policy is to remain in place until the gray 15:13:33</p> <p>2 market problem is alleviated, or something like 15:13:37</p> <p>3 that. I don't want to misquote it, but it was 15:13:37</p> <p>4 something like that. 15:13:41</p> <p>5 Q. So is it your testimony that the 15:13:41</p> <p>6 pricing policy instituted in Canada in June of 1998 15:13:44</p> <p>7 was related in some way to the pricing policy change 15:13:50</p> <p>8 across the board in January of 1999? 15:13:55</p> <p>9 A. Yes. 15:13:58</p> <p>10 MR. COLLINS: That question 15:13:59</p> <p>11 mischaracterizes the record. 15:14:00</p> <p>12 Go ahead. 15:14:02</p> <p>13 BY THE WITNESS: 15:14:03</p> <p>14 A. Yes. 15:14:03</p> <p>15 BY MR. BESSETTE: 15:14:04</p> <p>16 Q. Okay. And what is your basis for that 15:14:04</p> <p>17 conclusion? 15:14:06</p> <p>18 A. Again, there is another internal 15:14:06</p> <p>19 company memo I believe in which the company 15:14:11</p> <p>20 describes its short-term and long-term efforts to 15:14:13</p> <p>21 deal with its gray market problem. 15:14:17</p> <p>22 Q. I am sorry? Again, you are falling 15:14:20</p> <p>23 back on academic literature? 15:14:24</p> <p>24 A. No, no, no. Those are internal 15:14:27</p>
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<p>1 significant damage a company can suffer from gray 15:12:39</p> <p>2 market activity. What is your proof that the 15:12:45</p> <p>3 pricing policy was related to gray marketing? 15:12:46</p> <p>4 MR. COLLINS: Asked and answered. 15:12:50</p> <p>5 BY MR. BESSETTE: 15:12:52</p> <p>6 Q. Is it simply the report that you cite 15:12:52</p> <p>7 in that paragraph? 15:12:55</p> <p>8 MR. COLLINS: Asked and answered. 15:12:55</p> <p>9 BY THE WITNESS: 15:12:57</p> <p>10 A. No. As I stated earlier, it is also 15:12:57</p> <p>11 the result of reading internal company memos at the 15:12:59</p> <p>12 time that the company was devising these pricing 15:13:03</p> <p>13 policies. And in many cases, those memos talk both 15:13:05</p> <p>14 about pricing policies and gray marketing. 15:13:10</p> <p>15 BY MR. BESSETTE: 15:13:12</p> <p>16 Q. What date? What memos are you talking 15:13:12</p> <p>17 about? 15:13:15</p> <p>18 A. I am not recalling exactly right now. 15:13:15</p> <p>19 But, for example, one of the documents we have 15:13:17</p> <p>20 already talked about is a document in which the 15:13:19</p> <p>21 company was adopting a new pricing policy for Canada 15:13:21</p> <p>22 in which the company official -- and I don't 15:13:24</p> <p>23 remember who wrote the memo right now, it might have 15:13:27</p> <p>24 been Chris Beebe, but I'm not sure -- states that 15:13:31</p>	<p>1 company memos. 15:14:28</p> <p>2 Q. That say what? 15:14:29</p> <p>3 A. That say -- in which the company is 15:14:30</p> <p>4 talking -- I think I believe it was well after the 15:14:32</p> <p>5 IPO. And I am remembering, and I may be incorrect 15:14:35</p> <p>6 about what I am remembering, but I believe it was 15:14:40</p> <p>7 Barney Adams detailing what it was that the company 15:14:43</p> <p>8 had done in response to gray marketing, and he talks 15:14:46</p> <p>9 about a short-term effort the company made in 15:14:48</p> <p>10 devising a pricing policy for Canada. It talks 15:14:50</p> <p>11 about a longer term policy in which the company 15:14:53</p> <p>12 revises pricing policy altogether I believe both in 15:14:58</p> <p>13 Canada and the United States. And that memo was 15:15:01</p> <p>14 clear that the company was doing so in response to 15:15:06</p> <p>15 its gray market problem. 15:15:09</p> <p>16 Q. Okay. I will have to try to find that 15:15:11</p> <p>17 one. 15:15:22</p> <p>18 Let me show you, Professor, what 15:16:36</p> <p>19 has been marked as Exhibit 17. I am trying just to 15:16:38</p> <p>20 figure out what you are referring to. Is that 15:16:43</p> <p>21 letter to Adams' retailers dated January 4, 1999 the 15:16:46</p> <p>22 document you were referring to? 15:16:53</p> <p>23 A. I don't think so. 15:17:51</p> <p>24 Q. Did you cite it in your reports 15:17:55</p>

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<p>1 anywhere? 15:18:00</p> <p>2 MR. COLLINS: Speak for themselves. 15:18:01</p> <p>3 BY THE WITNESS: 15:18:03</p> <p>4 A. I don't recall. 15:18:04</p> <p>5 BY MR. BESSETTE: 15:18:04</p> <p>6 Q. Well, you reviewed it I guess in 15:18:05</p> <p>7 connection with your work in this case, so is it 15:18:07</p> <p>8 detailed somewhere in your reports? 15:18:09</p> <p>9 MR. COLLINS: She just said she 15:18:11</p> <p>10 doesn't know. 15:18:14</p> <p>11 BY THE WITNESS: 15:18:14</p> <p>12 A. I don't recall. I reviewed a lot of 15:18:15</p> <p>13 documents. I didn't cite them all. 15:18:17</p> <p>14 BY MR. BESSETTE: 15:18:19</p> <p>15 Q. Why didn't you cite them all, by the 15:18:19</p> <p>16 way? 15:18:21</p> <p>17 A. My understanding is that there is some 15:18:21</p> <p>18 limitation on the page limit of the report. If I 15:18:25</p> <p>19 were to cite every document that I received, I can't 15:18:31</p> <p>20 even imagine how long the report would have been. 15:18:34</p> <p>21 Q. What is this understanding of some 15:18:36</p> <p>22 page limit? 15:18:39</p> <p>23 A. It is my own understanding from 15:18:40</p> <p>24 talking to people who have worked in litigation 15:18:43</p>	<p>1 report. 15:19:55</p> <p>2 A. No, no. 15:19:56</p> <p>3 Q. Okay. 15:19:56</p> <p>4 A. No, no, no. I set forth all the 15:19:56</p> <p>5 documents in my report early on in the report. 15:19:58</p> <p>6 Q. Okay. 15:19:58</p> <p>7 A. There I stated that I have reviewed 15:20:02</p> <p>8 all the exhibits that I received at that time. I 15:20:03</p> <p>9 did not cite every one of those exhibits. 15:20:05</p> <p>10 Q. So the document is, according to your 15:20:08</p> <p>11 report, has to be an exhibit in the deposition? 15:20:33</p> <p>12 A. Can you say that again? 15:20:37</p> <p>13 Q. Yeah. On page 4 of your report, this 15:20:39</p> <p>14 is where you list the documents that you reviewed 15:20:43</p> <p>15 and/or relied on, okay. And the first bullet is 15:20:45</p> <p>16 depositions and transcripts and exhibits of all 15:20:54</p> <p>17 deponents except plaintiffs. Then there are other 15:20:57</p> <p>18 declarations in the Costco documents, a Callaway 10K 15:21:00</p> <p>19 and an expert report from Alan Miller. So there are 15:21:04</p> <p>20 no individual documents listed. 15:21:08</p> <p>21 So my question is, since you don't 15:21:11</p> <p>22 have any individual documents listed, and you don't 15:21:12</p> <p>23 cite it anywhere individually in your report, I 15:21:16</p> <p>24 suppose it has to be an exhibit to a deposition 15:21:18</p>
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<p>1 previously about what the standard practice is of 15:18:48</p> <p>2 expert's reports. 15:18:50</p> <p>3 Q. Well, how did you decide which 15:18:51</p> <p>4 documents to include -- to include in your report 15:18:53</p> <p>5 detailing which ones they were and which ones you 15:18:58</p> <p>6 didn't? How did you decide which ones to include? 15:19:01</p> <p>7 A. I read them. I looked for all 15:19:03</p> <p>8 documents that appeared to in any way touch on gray 15:19:05</p> <p>9 marketing, specifically on the impact that gray 15:19:10</p> <p>10 marketing was having on the company. I also looked 15:19:18</p> <p>11 for documents that revealed information about the 15:19:16</p> <p>12 company's business strategies and business model and 15:19:18</p> <p>13 strategies for growth in order to be able to 15:19:22</p> <p>14 determine whether or not the company was poised to 15:19:25</p> <p>15 become -- to avail itself of the gray market. 15:19:28</p> <p>16 Q. Well, no, no. I am sorry. Maybe I 15:19:34</p> <p>17 wasn't clear on my question. 15:19:37</p> <p>18 My question is, you are required 15:19:38</p> <p>19 to list the documents that you reviewed, whether you 15:19:40</p> <p>20 relied on them or not. 15:19:45</p> <p>21 A. Uh-huh. 15:19:46</p> <p>22 Q. And maybe I am misunderstanding, but 15:19:47</p> <p>23 what I am hearing is that you reviewed some 15:19:50</p> <p>24 documents that you have not set forth in your 15:19:53</p>	<p>1 transcript, because otherwise you haven't listed all 15:21:20</p> <p>2 the documents you have reviewed or relied on. 15:21:23</p> <p>3 A. My understanding of the exhibits that 15:21:25</p> <p>4 I received was that they were all in connection with 15:21:27</p> <p>5 deposition transcripts. 15:21:30</p> <p>6 Q. And that's what I asked you. 15:21:31</p> <p>7 MR. COLLINS: That's what she 15:21:33</p> <p>8 answered. 15:21:36</p> <p>9 MR. BESSETTE: I don't think I got an 15:21:36</p> <p>10 answer before just now. 15:21:38</p> <p>11 MR. COLLINS: Well, I am glad to tell 15:21:40</p> <p>12 you, if this is helpful, that we gave her all the 15:21:41</p> <p>13 deposition transcripts. 15:21:43</p> <p>14 MR. BESSETTE: Okay. I just want 15:21:43</p> <p>15 to -- 15:21:43</p> <p>16 MR. COLLINS: And all of the 15:21:44</p> <p>17 deposition transcript exhibits. And I don't recall 15:21:45</p> <p>18 any other document -- I don't know of any documents 15:21:47</p> <p>19 that we provided that aren't listed here. 15:21:48</p> <p>20 MR. BESSETTE: Okay. 15:21:50</p> <p>21 BY MR. BESSETTE: 15:21:51</p> <p>22 Q. Now, go to page -- I'm sorry -- 15:22:02</p> <p>23 Paragraph 27 of your initial report. You say, low 15:22:04</p> <p>24 sales force morale is another common effect of gray 15:22:19</p>

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<p>1 market activity, and then you cite Barney Adams's 15:22:24</p> <p>2 memo of August 14, which is Exhibit 57, where among 15:22:27</p> <p>3 other comments, he states that the staff had very 15:22:32</p> <p>4 low morale, including having no faith in their 15:22:37</p> <p>5 management. Do you have any knowledge whether the 15:22:40</p> <p>6 low morale that Mr. Adams is referring to in that 15:22:42</p> <p>7 memo had anything to do with gray marketing? 15:22:45</p> <p>8 A. I don't. I thought it was interesting 15:22:48</p> <p>9 that this is one of the common effects of gray 15:22:50</p> <p>10 market activity, and it was, itself, present within 15:22:53</p> <p>11 Adams Golf. 15:22:58</p> <p>12 Q. But you are not giving the opinion or 15:22:59</p> <p>13 it is not part of your conclusion that there is a 15:23:02</p> <p>14 cause and effect relationship between gray marketing 15:23:04</p> <p>15 and a low morale? 15:23:08</p> <p>16 A. I am not making the opinion that it 15:23:09</p> <p>17 necessarily caused the low morale. 15:23:13</p> <p>18 Q. Is it your opinion that it had 15:23:16</p> <p>19 anything to do with the low morale? 15:23:18</p> <p>20 A. I don't know with certainty, no. 15:23:37</p> <p>21 Q. Do you know at all or are you just 15:23:46</p> <p>22 speculating? 15:23:50</p> <p>23 MR. COLLINS: Asked and answered. 15:23:50</p> <p>24</p>	<p>1 world, the universe of authorized retailers that 15:25:35</p> <p>2 were displeased with Adams. The entire universe. 15:25:40</p> <p>3 Q. Tell me some. 15:25:44</p> <p>4 A. Okay. I can tell you that all the 15:25:45</p> <p>5 retailers that sent complaints to Adams, in addition 15:25:46</p> <p>6 to those that were represented by WDC Mackenzie when 15:25:49</p> <p>7 they corresponded with Adams, and related to Adams 15:25:55</p> <p>8 that authorized retailers in Canada were quite 15:25:58</p> <p>9 displeased. 15:26:02</p> <p>10 Q. Okay. So we have Mackenzie as the 15:26:02</p> <p>11 Canadian distributor, we have got six or seven 15:26:05</p> <p>12 retailers that complain. And what else do we have? 15:26:09</p> <p>13 MR. COLLINS: Asked and answered. 15:26:12</p> <p>14 By THE WITNESS: 15:26:12</p> <p>15 A. We talked about that earlier in the 15:26:13</p> <p>16 day. As far as written documentation, we have got 15:26:15</p> <p>17 the communications between authorized retailers and 15:26:19</p> <p>18 distributors and the company. And that's what we've 15:26:23</p> <p>19 got. 15:26:25</p> <p>20 BY MR. BESSETTE: 15:26:25</p> <p>21 Q. Okay. 15:26:25</p> <p>22 A. If I can just add to that response. 15:27:24</p> <p>23 Just talking back to that earlier conversation, I 15:27:27</p> <p>24 just want to make sure that it is clear that I am 15:27:28</p>
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<p>1 BY THE WITNESS: 15:23:51</p> <p>2 A. There is a certain amount of 15:23:52</p> <p>3 speculation, because I'll tell you the process that 15:23:53</p> <p>4 I went through in seeing them. When I saw some of 15:23:55</p> <p>5 the negative effects that gray market activity can 15:24:00</p> <p>6 have on a company, one of them, which I wasn't sure 15:24:03</p> <p>7 I would find, was low sales force morale. However, 15:24:07</p> <p>8 in then reviewing the documents that I received, I 15:24:11</p> <p>9 saw that, in fact, that was another problem that 15:24:14</p> <p>10 Adams Golf was facing at the time. I thought that 15:24:20</p> <p>11 was interesting. 15:24:26</p> <p>12 Q. Okay. 15:24:26</p> <p>13 A. And worth noting, since that is often 15:24:28</p> <p>14 caused by the gray market. 15:24:31</p> <p>15 Q. Right. Okay. But it's speculation on 15:24:33</p> <p>16 your part whether there is any cause and effect 15:24:35</p> <p>17 relationship? 15:24:38</p> <p>18 A. Yes. 15:24:38</p> <p>19 Q. 23A, last sentence. "The displeasure 15:24:38</p> <p>20 Adams' authorized retailers felt with gray market 15:25:13</p> <p>21 sales is well documented and described in part in 15:25:18</p> <p>22 Paragraph 15A above." Which authorized retailers 15:25:22</p> <p>23 were displeased with Adams, Professor? 15:25:26</p> <p>24 A. I wouldn't be able to tell you the 15:25:28</p>	<p>1 referring to also having knowledge of the practice 15:27:32</p> <p>2 of regional account coordinators going into the 15:27:35</p> <p>3 field, having strong relationships with the 15:27:38</p> <p>4 retailers. Especially after the gray market problem 15:27:41</p> <p>5 arose, they were making trips into the fields to 15:27:43</p> <p>6 work with authorized retailers. And so like I said, 15:27:46</p> <p>7 and we talked about the speculative nature of this 15:27:50</p> <p>8 as well, I could imagine that an awful lot of 15:27:53</p> <p>9 unofficial complaints were made sort of in those 15:27:56</p> <p>10 engagements. 15:28:00</p> <p>11 Q. Sure. Do you have any evidence of 15:28:01</p> <p>12 any? 15:28:02</p> <p>13 A. No. 15:28:02</p> <p>14 Q. Okay. At Paragraph 19 and I think 21 15:28:03</p> <p>15 of your report, and I don't know that you need to 15:28:09</p> <p>16 refer to them, but you say, again, one of the other 15:28:14</p> <p>17 things that make Adams Golf particularly vulnerable 15:28:16</p> <p>18 to the gray market -- well, no. Strike that. 15:28:21</p> <p>19 You actually say, citing Myers, 15:28:27</p> <p>20 you say, problems can arise in the form of 15:28:31</p> <p>21 ineffective pricing policies, which you talked 15:28:33</p> <p>22 about, deteriorated distributor relationships, which 15:28:36</p> <p>23 you talked about, low sales force morale, again, 15:28:40</p> <p>24 which you've talked about, and poor customer 15:28:41</p>

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<p>1 service. Did Adams Golf suffer from poor customer 15:28:44</p> <p>2 service, to your knowledge? 15:28:49</p> <p>3 A. I don't know. 15:28:49</p> <p>4 Q. You haven't seen any evidence of it? 15:28:49</p> <p>5 A. I would say the only evidence that I 15:28:52</p> <p>6 might point to -- or evidence that I might point to 15:29:13</p> <p>7 is the returned clubs, but no. Basically no. 15:29:17</p> <p>8 Q. 6B of your rebuttal, last sentence. 15:29:21</p> <p>9 You say, the company was devoting significant 15:29:52</p> <p>10 manpower, profits and capital resources to its gray 15:29:56</p> <p>11 market problem, leading up to and following its IPO. 15:29:59</p> <p>12 You say initial public offering. Actually, in 29C 15:30:03</p> <p>13 of your initial report, you say that -- you have the 15:30:20</p> <p>14 same statement and you cite a four-person Costco 15:30:23</p> <p>15 buster team as evidence. 15:30:30</p> <p>16 A. Uh-huh. 15:30:31</p> <p>17 Q. Is that right? 15:30:32</p> <p>18 A. Yes. 15:30:33</p> <p>19 Q. Okay. Is there any other support 15:30:33</p> <p>20 other than that four-person Costco buster team to 15:30:42</p> <p>21 support your conclusion that the company was 15:30:47</p> <p>22 devoting significant manpower to its gray market 15:30:50</p> <p>23 problem? 15:30:54</p> <p>24 A. Certainly Barney Adams activities. I 15:30:54</p>	<p>1 evidence that we have already talked about, the 15:31:58</p> <p>2 Costco buster team, for example, four-person Costco 15:32:03</p> <p>3 buster team. 15:32:06</p> <p>4 Q. I'm sorry, can I stop you? Because 15:32:06</p> <p>5 that's post. Let's do it in -- let's go leading up 15:32:07</p> <p>6 to, if we can start there. 15:32:09</p> <p>7 A. Sure. The Grace report I thought was 15:32:11</p> <p>8 instructive in that respect. 15:32:13</p> <p>9 Q. Tell me how. 15:32:14</p> <p>10 A. The Grace report details the 15:32:15</p> <p>11 activities the company was undertaken in order to 15:32:17</p> <p>12 combat its gray market problem. 15:32:21</p> <p>13 Q. Like what? 15:32:23</p> <p>14 A. Let me look at the Grace report. For 15:32:24</p> <p>15 example, on page 17 of the Grace report, there is a 15:33:05</p> <p>16 lot here. We have got Chris Beebe traveling to 15:33:11</p> <p>17 Canada to meet with WDC Mackenzie. We have got the 15:33:21</p> <p>18 company monitoring orders from retailers and 15:33:31</p> <p>19 distributors. We have got Beebe monitoring all 15:33:34</p> <p>20 large orders. We have got Barney Adams sending 15:33:41</p> <p>21 letters to suspected transshippers. We have got the 15:33:46</p> <p>22 company, I don't know who, reviewing the company 15:33:51</p> <p>23 sales policy to ensure what's called as tight as 15:33:53</p> <p>24 possible redistribution restrictions. We have got 15:33:59</p>
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<p>1 don't believe Barney Adams was part of the 15:30:58</p> <p>2 four-person Costco buster team. There is evidence 15:31:00</p> <p>3 in the documents that he was devoting quite a bit of 15:31:04</p> <p>4 energy to the gray market problem. 15:31:08</p> <p>5 Q. When was that? 15:31:09</p> <p>6 A. In memos that he wrote about the gray 15:31:10</p> <p>7 market, right. 15:31:14</p> <p>8 Q. Post IPO you are talking about? The 15:31:14</p> <p>9 ones we looked at in October? 15:31:17</p> <p>10 A. Those, yes. 15:31:18</p> <p>11 Q. Was he doing anything pre IPO that you 15:31:19</p> <p>12 are aware of? 15:31:22</p> <p>13 A. I detailed it in my rebuttal report. 15:31:23</p> <p>14 Q. Well, I think 6B of your rebuttal 15:31:31</p> <p>15 report you make this statement with no cite. So 15:31:34</p> <p>16 tell me the evidence that supports your conclusion 15:31:37</p> <p>17 that the company was devoting significant -- let's 15:31:41</p> <p>18 break it out -- significant manpower, profits and 15:31:44</p> <p>19 capital resources to its gray market problem, let's 15:31:48</p> <p>20 say leading up to the IPO, and then following the 15:31:51</p> <p>21 IPO. 15:31:54</p> <p>22 A. Uh-huh. 15:31:54</p> <p>23 Q. Okay? 15:31:56</p> <p>24 A. Okay. Well, first, there is the 15:31:56</p>	<p>1 Barney Adams himself writing to Costco demanding to 15:34:01</p> <p>2 know the sources from which Costco obtained the 15:34:06</p> <p>3 purported Adams clubs. We have got Barney Adams 15:34:06</p> <p>4 leading the effort by Adams to further persuade 15:34:12</p> <p>5 Costco to reveal their sources. 15:34:16</p> <p>6 Q. Is that all that you considered in -- 15:34:18</p> <p>7 well, actually, you know what, let me ask you this: 15:34:21</p> <p>8 You wrote your report initially before seeing the 15:34:24</p> <p>9 Grace report. What did you have in mind when you 15:34:27</p> <p>10 said in your initial report the company was devoting 15:34:30</p> <p>11 significant manpower, profits and capital resources 15:34:35</p> <p>12 to its gray market problem leading up to the IPO, 15:34:35</p> <p>13 let's start with? 15:34:38</p> <p>14 A. I reviewed all of the exhibits that 15:34:38</p> <p>15 Grace also reviewed and cited in drafting this part 15:34:41</p> <p>16 of his report. 15:34:46</p> <p>17 Q. Okay. And so what you just 15:34:46</p> <p>18 articulated to me is what you considered to be 15:34:49</p> <p>19 significant manpower, profits and capital resources 15:34:53</p> <p>20 employed by Adams Golf to its gray marketing problem 15:34:56</p> <p>21 leading up to the IPO? 15:35:00</p> <p>22 A. The report goes on, but I stopped, 15:35:02</p> <p>23 yes. 15:35:07</p> <p>24 Q. Well, give me everything. 15:35:07</p>

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<p style="text-align: right;">Page 226</p> <p>1 A. Okay. In addition, we have got Mark 15:35:08</p> <p>2 Gonsalves personally investigating the Costco issue 15:35:12</p> <p>3 and traveling to Boise, Idaho. And we have got the 15:35:14</p> <p>4 company, I don't know who, investigating the 15:35:20</p> <p>5 marketing of clubs as a possible way to enable the 15:35:22</p> <p>6 identification of the clubs, identification of the 15:35:27</p> <p>7 transshipper, the person who is gray marketing the 15:35:29</p> <p>8 clubs. And this part is unclear, but we have also 15:35:33</p> <p>9 got the company at some point near the time of the 15:35:41</p> <p>10 IPO marking its clubs with paint. 15:35:43</p> <p>11 Q. And so to cut this short, everything 15:35:50</p> <p>12 that Mr. Grace has in his report about what the 15:35:54</p> <p>13 company was doing pre IPO with respect to gray 15:35:56</p> <p>14 marketing is what you mean when you say the company 15:35:59</p> <p>15 was devoting significant manpower, profits and 15:36:02</p> <p>16 capital resources to the gray market problem leading 15:36:05</p> <p>17 up to the IPO? 15:36:06</p> <p>18 A. Significant manpower. All of that 15:36:06</p> <p>19 that we just talked about, in the Grace report, 15:36:10</p> <p>20 details the manpower that was devoted to combating 15:36:12</p> <p>21 the gray market leading up to the IPO. 15:36:18</p> <p>22 Q. Okay. And then how about the profits 15:36:18</p> <p>23 and capital resources part of your sentence? Is 15:36:19</p> <p>24 that separate? 15:36:22</p>	<p style="text-align: right;">Page 228</p> <p>1 serializing machine. I don't know whether they 15:37:16</p> <p>2 placed the order for the serializing machine before 15:37:18</p> <p>3 or after the IPO. 15:37:20</p> <p>4 Q. Do you know about whether they talked 15:37:21</p> <p>5 about it before the IPO? 15:37:23</p> <p>6 A. Yes. 15:37:24</p> <p>7 Q. Well, the serializing machine or just 15:37:25</p> <p>8 putting numbers on clubs? Do you know whether there 15:37:28</p> <p>9 is a difference? Or putting a marker on a club? 15:37:31</p> <p>10 A. Yes, there is a difference. Right. 15:37:34</p> <p>11 You can mark clubs in a number of ways. The company 15:37:34</p> <p>12 chose ultimately to do that through the purchase of 15:37:38</p> <p>13 a serializing machine, a marking machine. I've 15:37:42</p> <p>14 never seen one of these machines. I'm not sure how 15:37:42</p> <p>15 they operate. 15:37:44</p> <p>16 Q. No. I guess my question is, do you 15:37:44</p> <p>17 know whether the company was talking sincerely about 15:37:48</p> <p>18 obtaining a machine to serialize the clubs pre IPO? 15:37:50</p> <p>19 A. Yes. 15:37:54</p> <p>20 Q. What is your source for that? 15:37:54</p> <p>21 A. Again, I can tell you. I don't know 15:37:57</p> <p>22 the exact number. There is an exhibit that 15:37:57</p> <p>23 states -- that demonstrates that. 15:38:01</p> <p>24 Q. It's all right. You don't have to 15:38:02</p>
<p style="text-align: right;">Page 227</p> <p>1 A. Yes. 15:36:22</p> <p>2 Q. Okay. 15:36:23</p> <p>3 A. The profits refers to the pricing 15:36:24</p> <p>4 strategies that the company was employing. And the 15:36:28</p> <p>5 pricing strategies the company revised in reaction 15:36:31</p> <p>6 to the gray market problem that it was facing. 15:36:34</p> <p>7 The -- 15:36:37</p> <p>8 Q. Well, let me stop you there. What 15:36:37</p> <p>9 dollar amount was that, do you know? 15:36:40</p> <p>10 A. I don't know. 15:36:42</p> <p>11 Q. How do you know it was significant? 15:36:42</p> <p>12 A. It was in place to combat the gray 15:36:44</p> <p>13 market. It was significant in that respect. 15:36:49</p> <p>14 Q. Oh. So if it was 10, \$20,000, that is 15:36:52</p> <p>15 still significant to you? 15:36:54</p> <p>16 A. It was in respect to the gray market, 15:36:54</p> <p>17 yes. 15:36:57</p> <p>18 Q. Okay. All right. Capital resources, 15:36:57</p> <p>19 is there different capital resources? 15:37:00</p> <p>20 A. Yeah. Capital resources there I was 15:37:03</p> <p>21 referring specifically to infrastructure that the 15:37:04</p> <p>22 company was having -- physical infrastructure the 15:37:07</p> <p>23 company was having to put in place, like the 15:37:08</p> <p>24 purchasing or the contemplation of purchasing the 15:37:11</p>	<p style="text-align: right;">Page 229</p> <p>1 look for it. 15:38:08</p> <p>2 MR. COLLINS: We have to break soon. 15:38:08</p> <p>3 We have got a few more minutes. 15:38:09</p> <p>4 BY MR. BESSETTE: 15:38:30</p> <p>5 Q. Now, at Paragraph 13 of your initial 15:38:31</p> <p>6 report you say problems can arise in the form of 15:38:34</p> <p>7 ineffective pricing policies, and we sort of touched 15:39:02</p> <p>8 on some of this before. Pre IPO, did Adams suffer 15:39:05</p> <p>9 from ineffective pricing policies in your view? 15:39:10</p> <p>10 A. I believe in Canada, yes. 15:39:11</p> <p>11 Q. And so it's the June 8th offering 15:39:13</p> <p>12 credits to Mackenzie and its retailers who qualified 15:39:19</p> <p>13 that to you as evidence of infective pricing policy 15:39:24</p> <p>14 in Canada? 15:39:27</p> <p>15 MR. COLLINS: Mischaracterizes. 15:39:28</p> <p>16 BY THE WITNESS: 15:39:29</p> <p>17 A. Yes. 15:39:30</p> <p>18 BY MR. BESSETTE: 15:39:31</p> <p>19 Q. Any other example or any other basis? 15:39:31</p> <p>20 MR. COLLINS: Pre IPO? 15:39:33</p> <p>21 MR. BESSETTE: Yes. 15:39:33</p> <p>22 BY THE WITNESS: 15:39:33</p> <p>23 A. Not that I am recalling at the moment. 15:39:35</p> <p>24</p>

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